Appendix C

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
KNOXVILLE DIVISION

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LEWIS COSBY, KENNETH R. MARTIN, as beneficiary of the Kenneth Ray Martin Roth IRA, and MARTIN WEAKLEY on behalf of themselves and all others similarly situated,

Plaintiffs,

vs. No. 3:16-cv-00121

KPMG, LLP,

Defendant.

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April 25, 2019
8:57 a.m.

CONTINUED VIDEOTAPED DEPOSITION of CHAD COFFMAN, held at the law offices of MCDERMOTT WILL & EMERY LLP, 340 Madison Avenue, New York, New York, before Eleanor Greenhouse, a Shorthand Reporter and Notary Public within and for the State of New York.

A P P E A R A N C E S:

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A P P E A R A N C E S: (Continued.)

ALSO PRESENT:

Assen Koev, Charles River Associates

Allison Hart, Paralegal, McDermott Will & Emery

Darrak Lighty, Video Specialist, Reporters Central

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THE VIDEO TECHNICIAN: This is the continued video deposition of Chad Coffman in the matter of Lewis Cosby, et al., versus KPMG, LLP. This deposition is being held at McDermott Will & Emery LLP on April 25th, 2019 at 8:57 a.m.

My name is Darrak Lighty from Reporters Central and I am the video specialist. The court reporter today is Eleanor Greenhouse, also associated with Reporters Central. Counsel will now state their appearances for the record.

MS. POSNER: Laura Posner, Cohen Milstein, for the Plaintiffs.

MR. BALLARD: I'm Greg Ballard from McDermott Will & Emery. I have Allison Hart, a paralegal, also from McDermott, with me. We're representing KPMG, and Assen Koev from Charles River Associates is here with us as well.

MR. DAVIDSON: Paul Davidson from Waller Lansden Dortch & Davis, representing KPMG.

THE VIDEO TECHNICIAN: The witness has

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been previously duly sworn.

C H A D C O F F M A N, resumed as a witness, having been previously sworn by the Notary Public, was examined and testified further as follows:

EXAMINATION BY
MR. BALLARD:

Q. Good morning.
A. Good morning.

(Exhibit 42, corrected expert report of Chad Coffman, signed April 19, 2019, marked for identification.)

Q. Mr. Coffman, I've placed before you several newly marked exhibits. Do you have in your hands Exhibit No. 42?
A. Yes.
Q. What is Exhibit 42?
A. Exhibit 42 appears to be a copy of the corrected expert report I've now submitted in this matter.
Q. Did you sign this on April 18, 2019?
A. April 19, 2019, I believe.
Q. Does Exhibit 42 contain a complete statement of all opinions you will express, and the

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basis and reasons for them, on class certification in this case?

A. It provides a summary of all the opinions I've been asked to -- all the questions I've been asked to answer in this phase of this case, yes.

Q. And I used the phrase "a complete statement" because that's what the Federal Rules require. You intended to include a complete statement of your opinions; right?

A. Yes.

Q. Did you do your best to make sure that Exhibit 42, your corrected report, contains the facts and the data that you considered in forming your opinions?

A. It provides a summary of the facts and analyses that I'm relying upon. There's also backup material that is not in the report that I view as part of what I produced.

Q. Does Exhibit 42 contain the exhibits that you would use to support your opinions?

A. As far as I know at this point, yes.

Q. When you produced the corrected report to us in this case, did you also produce some

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additional backup material?

A. That's my understanding, yes.

Q. Before we get to that, I want to show you what we previously marked as Exhibit 25. This was your old report. So you've got Exhibit 25 and 42 in your hands. We should look to Exhibit 42, not Exhibit 25, to find your current opinions; is that right?

A. Well, I don't think the overall opinions have changed at all, but in terms of corrected numbers based on the updated analysis, yes.

Q. For that we should be using Exhibit 42?

A. Yes.

MR. BALLARD: So let's set aside 25. We don't need to look at that anymore.

(Exhibit 43, redline of original report against corrected report, marked for identification.)

MR. BALLARD: In your pile over there, there is Exhibit 43. We ran a redline of your original report against your corrected report. That's what this is, to show the changes, and so you can just keep that handy

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today in case it's useful to refer to.
THE WITNESS: Okay.
MR. BALLARD: I don't have any questions on it at this point. I just thought it would be helpful in case you needed to refer to it.
The next document in your pile there is Exhibit 44.
(Exhibit 44, printout of regression CS tab in the backup provided with corrected report, marked for identification.)
Q. Do you see the big printout?
A. Yes.
Q. This is a printout of the regression CS tab in the backup you provided with your corrected report.
A. Okay.
MS. POSNER: Just for clarity, the only changes you made to this is formatting?
MR. BALLARD: Yes. What we did is we took the regression CS tab of the larger spreadsheet, formatted it to print on a page like this, and printed it. None of the numbers or data has been changed and all of

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the columns are printed the way they appear in the spreadsheet.

MS. POSNER: Thank you.

Q. Do you recognize this?

A. Yes. This appears to be a -- what appears to be a copy of a spreadsheet that would be produced as a result of the event study.

Q. And you recall that we looked at a similar large spreadsheet on the first day of your deposition?

A. Yes.

Q. The numbers have changed a little bit in this spreadsheet; right?

A. Yes.

Q. So we should consult Exhibit 44 if we want to see what your regression analysis for the common stock showed?

A. Yes.

(Exhibit 45, trade dates tab from backup to corrected report, marked for identification.)

(Exhibit 46, news dates tab from backup to corrected report, marked for identification.)

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(Exhibit 47, earnings release dates tab from backup to corrected report, marked for identification.)

(Exhibit 48, SEC filing dates tab from backup to corrected report, marked for identification.)

(Exhibit 49, analyst report dates tab from backup to corrected report, marked for identification.)

Q. There's a series of several additional exhibits in your pile there also printed from your backup. Do you have that Exhibit 45, 46, 47, 48 and 49?

A. Yes.

Q. And these, again, were printed from your backup. We added to the top of each page a reference to the Bates number or the file number from your backup and also next to that, the title of the tab that was printed. So the Exhibit 45 says "Trade Dates." Do you see that?

A. Yes.

Q. Exhibit 46 says "News Dates." Exhibit 47 says "Earnings Release Dates" and Exhibit 48 says "SEC," for SEC filing dates, and Exhibit 49

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says "AR" for analyst report dates. Do you see that?

A. I see that, yes.

Q. Do you recognize these materials?

A. I mean, I've seen these in electronic form at some point, but I mean, yes, these appear to be the standard sort of interim data files that are created from our process of doing the event study.

Q. One of the things that you had to do in conducting your analysis was to determine what days were going to be categorized as no news days; right?

A. Yes.

Q. And you categorized a day as a no news day if there was no news article, no SEC filing, no earnings release and no analysis report on that date; is that right?

A. That's correct.

Q. And does this backup material here in Exhibits 44 through 49 tell us which dates you categorized as a date when there was a news article, an SEC filing, an earnings release or an analyst report?

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A. As long as this is the backup material that was produced along with the corrected report, yes, because there would have been similar tables I believe produced for the original report.

Q. These are the materials we printed from the backup that you produced for your corrected report.

A. Okay.

Q. So for purposes of determining if you treated a day, a particular day, as a no news day, we could consult these exhibits and if the day does not appear on the news day, the earnings release day, the SEC filing day or the analyst report day, and is a trade date, that would be a no news day; right?

A. That's my understanding, yes.

Q. You can set those aside for now. We will come back to those later. I'd like to return now to your original report for a minute, number 25. Please turn to page 50.

On page 50, you had the conclusion in your original report, and you wrote that you declared, under penalty of perjury under the laws of the United States of America, that the foregoing

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is true and correct and you signed that on March 15, 2019; right?

A. Yes.

Q. Before you signed, what did you do to make sure the report and exhibits were true and correct?

A. Well, I would say that there's a whole process in place as the work is being done to make sure that's true. I mean, everything -- you know, I reviewed the report myself. I guided and provided direction to my staff as to what analyses I wanted performed. They would present me with results. I would review those. There's a process in place for a second independent person to produce those results.

So, I mean, that's at a very general level the processes that are in place, and then the conclusions are based off of the analysis that has been performed.

Q. Are those what you would call quality control procedures that you follow as a general matter in all your matters?

A. Yes.

Q. And who was the second independent

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reviewer who worked with you on this?

A. Well, there was a team of people that were helping me. I had a manager whose name is Mark Hedstrom and then there were two research analysts, Thomas Keene and Christian Geoppo.

Q. I thought you said that there was someone who was designated to be a second independent reviewer. Was there someone who had that role on this matter?

A. Well, Mr. Hedstrom helped serve as a manager of the process, and then the two individuals beyond him that I mentioned would have been the ones performing the work, each one working independently to audit results.

Q. So in producing your original report in this matter, did you follow the quality control procedures that you would typically follow in any matter?

A. Yes.

Q. Have you had occasions like this before where you had to revise your report?

A. Not often, but there have been a couple of occasions where I've had to make corrections to a report.

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Q. On how many occasions have you signed reports that you later had to revise because of errors brought to your attention during a deposition?

A. I don't recall a specific number but I believe it's less than a handful.

Q. At the time of the day of your first deposition, you had not discovered any of the errors; is that right?

A. That's correct.

Q. Do you think you ever would have discovered them on your own?

A. In the context -- not without performing an additional review which at some point may have occurred somewhere along the line in this case.

Q. Have you adopted or are you considering adopting any new policies or procedures or practices to prevent this kind of thing from happening again?

A. Well, I think it's really more reiterating the process that was in place and some of the procedures that should be performed. Clearly there was a -- I would say a -- in

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investigating how the error occurred, there was an over-reliance on one particular source instead of consulting multiple sources on certain things.

So yeah, there are updates to the -- not really updates to the procedures as much as just a reiteration of all the things that need to be checked to make sure things are accurate.

Q. Describe how you investigated how the errors occurred.

A. I convened a conference call with the people I mentioned before, you know, asked how this happened, and we had a discussion about that. And it became clear that there were certain procedures that -- you know, my staff works on a lot of these types of matters, and so we discussed how some of the procedures that were being done were not being done as thoroughly and carefully as they need to be.

Q. Whose fault was it that your report contained errors?

A. Well, I think ultimately it's my fault. I'm the one who is responsible. I would say there was fault along the way at every level. Mr. Hedstrom didn't do a sufficient review, and

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there was an over-reliance on just looking at Dow Jones newswires, newswire stories, as the way to identify the dates on which earnings announcements occurred, which in most cases wouldn't lead to this sort of error, but in this particular case, did because of the correction we discussed.

And I had an understanding that the review was going beyond just cataloging those and reviewing those press releases much more carefully than had been done in this case. So I would say there were errors made at all levels, but I'm ultimately responsible.

Q. Have you provided feedback or criticism to anyone on your staff as a result?

MS. POSNER: Objection.

A. Yes.

Q. Can you describe that?

A. It would have been part of that conference call and follow-up conversations enumerating some of the things that should be done each time we're looking at the timing of an earnings announcement, and going forward, there's going to be a -- we're putting in process a checklist procedure to make sure those are

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followed.

Q. So I believe I asked you what you did to investigate or to describe your investigation. You talked about a conference call. Was there anything else you did as part of this investigation?

A. Well, there were a number of follow-up conversations, so after the initial conference call where I asked my staff -- you know, we talked about how the error occurred, but I also said we need to go back and recheck every single -- the timing of every single earnings announcement and event date that we're studying and verify that we're looking at the right event date.

And then they provided me the detailed information that supported that. I looked at it. Mr. Hedstrom looked at it. So there was certainly followup to make sure we were getting that right.

Q. So as your work in connection with the corrected report, your team went back and took a very close look at each of the events to make sure you had the right date and the right time?

A. Yes.

Q. And are you confident that this time

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you have the right date and the right time for each event?

A. Yes.

Q. How many people worked on the corrected report?

A. I think it was the same group of people.

Q. Four people?

A. Yes. I mean, there may have been another person that somebody asked to check something, but those were the main people working on it.

Q. Do you know how many hours were spent working on the corrections?

A. I don't know that, no.

Q. Are you planning to bill your time and your team's time for the corrections?

A. I don't think a final decision has been made about that, but I'm certainly considering not doing that.

Q. Can you describe whatever quality checks you have performed on the corrected report, to the extent you haven't already described them?

A. Yeah. I think the general process that

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I described before was used for the corrected report as well. Any corrections were checked by multiple people. The updated analysis was independently confirmed by multiple people.

That's the general quality control check, and then Mr. Hedstrom reviews everything and then I reviewed everything.

Q. I want to walk through and just make sure I have a complete inventory of the changes that were made, so feel free to look at either the redline or the new report or the old report, whatever is more useful to you. I'm looking at Exhibit 43, which is the redline.

So obviously the date on the front has changed and it says, "Corrected," and you have a new date and signature at the end, and it looks to me that in your corrected report, Exhibit 42, the section titled, "Explanation of Need For Correction and Summary of Changes," which starts on page 3 and goes through page number 11, is new. Is that right?

A. Yes.

Q. So that text and the charts on those pages are all new?

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A. Yes.

Q. And then I notice there are changes in the section that discusses your regression analyses in the text, in the footnotes and in the charts; is that right?

A. Yes.

Q. Then there are changes in your Exhibit 7 on the regression analysis for the common stock; right?

A. Yes.

Q. There are changes in Exhibit 8?

A. Yes.

Q. I saw some changes in Exhibit 9 as well; is that right?

A. Yes.

Q. 9 is the regression analysis for the C series.

A. Yes.

Q. And then 10 changed as well, Exhibit 10? I think because the days with no news number changed, the numbers in the right-hand column changed in Exhibit 10; is that right?

A. Yes.

Q. And then Exhibit 11 is your regression

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analysis, or a summary of it, for the Series D. There were some changes in that as well; right?

A. Give me just a second.

Q. I believe you updated some of the headlines and the times.

A. Yeah, but I don't think any of the numbers should have changed. Let me just double-check that.

MS. POSNER: You're in 11 or 12?

MR. BALLARD: 11.

Q. It doesn't look like the numbers changed in any of the columns other than -- I take that back. In the time, it looks like in the second column, there's a change, for example, in the first row.

A. Yes. Yeah, but none of the regression -- none of the output of the regression changed. Some of the details of the headlines and timing changed, yes.

Q. And there are some changes in the footnotes which we will talk about later. Right?

A. Yes.

Q. I think you added another outlier day.

A. Yes.

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Q. And then on Exhibit 12, there are changes here as well; right?

A. To the right-hand column, yes.

Q. And in the footnotes; right?

A. Yes.

Q. And I think the next exhibit where we notice changes is Exhibit 17. Can you turn to that.

A. Yes.

Q. So there were changes there? This is the autocorrelation analysis.

A. Yes. There are changes there because of the changes in certain exclusion dates. That caused changes in the autocorrelation as well.

Q. The outlier dates?

A. Yes.

Q. So that would have resulted in changes to 17-C and 17-D as well?

A. Slight changes, yes. 17-C, yes.

Q. Actually 17-D --

A. 17-D, I don't believe it changed any of the numbers. Just the footnote.

Q. Okay. And then I think nearly last, but not least, you've obviously updated Appendix A

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to add the documents that you considered; right?

A. Correct.

Q. And then I think I noticed throughout there were some miscellaneous changes in the text of your report. So, for example, on page 30 --

A. The redline doesn't have page numbers.

Q. Yes. It's probably better to look at Exhibit 42, the corrected report.

A. Sure. Yes.

Q. So in paragraph 46, you had said, "Other than at the start and very end of the analysis period," and you've changed that to say, "Other than at the start and towards the end of the analysis period." That was a change; right?

A. Yes.

Q. And then there are some other changes throughout. On page 46, in paragraph 73, the second line, it looks like you added the words, "types of" to the phrase "two types of agreements." Do you see that?

A. Yes.

Q. Why did you make that change?

A. I just thought that was a better way of describing -- I wasn't -- upon further reflection,

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I wasn't sure that there were -- exactly how many agreements there were, so I noted that there were at least two types of agreements.

Again, that's not particularly relevant to any of the opinions I'm giving. I just thought it was a better way to describe it.

Q. On the same page, I noticed in the footnotes, you previously had a bunch of footnotes that described 10-Qs and stated that they were dated as of a certain date, and it has been corrected to say that they were for the quarter ended that date in a number of instances, and that was just to make it more accurate; right?

A. Yes. It didn't change any analysis. It was just to make clear that's what I was referring to, yes.

Q. So when you went through and revised your report, if you noticed things like that that, whatever you want to call them, minor changes or typos or whatever, you fixed them; right?

A. Yes.

Q. So anything you saw that was wrong, you fixed; right?

A. Yes.

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Q. Even if it was minor?
A. Yes.
Q. I think we've touched on all the categories of changes that we've identified. Have I missed anything that you can think of?
A. I don't believe so, no.
Q. And looking at the redline Exhibit 43, the redline at least says 1,545 insertions, 1,364 deletions for a total of 2,913 changes.
A. I think -- I don't know if that's counting the number of characters. I mean, I inserted eight or nine pages of text and charts so I assume that accounts for a lot of it. But the -- I mean, there were only a couple of errors identified, but those errors obviously propagate through a lot of the numbers that were calculated and so the changes reflect that.
Q. We can set aside the redline and let's focus on your corrected report which is Exhibit 42.
A. Okay.
Q. Let's turn to page 3, please --
A. Okay.
Q. -- in the section where you explain the need for correction and you summarize the changes.

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So you do acknowledge that there were errors in your original report that needed to be corrected; right?

A. Yes.

Q. And you've listed two types of errors here on page 3, the first relating to identifying the date upon which the market would have first reacted to Miller Energy's release of earnings; right?

A. Correct. Of Q4 2013 earnings specifically.

Q. So that was for one of the 17 events you looked at in the regression study for the common stock, there was an error in the date for one of the 17?

A. Correct, yes.

Q. And you note that you have confirmed that "The market date for the other 16 announcements I analyzed was correct."

A. Yes.

Q. And that you've double-checked and you're confident that the other 16 were and continue to be correct; right?

A. Yes.

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Q. And then the second type of error you listed here relates to two days upon which plaintiffs assert that news impacted the market price for Miller Energy that were inaccurately reclassified as no news dates; right?

A. Correct.

Q. So you're saying these two errors led to the many changes in the data and analysis and conclusions throughout the report?

THE WITNESS: I'm sorry. Could I have that read back, please.

(Record read.)

A. Well, again, I don't think there's a change to any of the conclusions, but it certainly changed specific numbers within the report and so those numbers have been updated.

Q. Well, did you draw a conclusion about whether each of the events you studied resulted or led to a statistically significant change in the market price?

A. Yes. I was referring to my overall conclusions about whether there was evidence of cause and effect.

Q. So these errors didn't cause you or

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correcting these errors did not lead you to change your conclusion about market efficiency; right?

A. It did not, that's correct.

Q. But correcting these errors did lead you to change your conclusion about whether individual events led to a statistically significant price movement?

A. Well, one of the 17 events, yes. But again, the overall conclusion from the analysis, which is whether or not there's a significant difference between what you observe on earnings dates versus no news dates, that didn't change, but the significance of one of the dates did change based on the misidentification of which day should be analyzed.

Q. In your original report, you concluded that 4 out of 17 events led to statistically significant movements in the price of the common stock; right?

A. Correct.

Q. And in your corrected report, you've concluded that only 3 of 17 led to such price movements; right?

A. That's correct, yes.

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Q. So that conclusion changed?

A. Yes, the results of those calculations changed and that's reflected in my corrected report, but it didn't change any conclusion about whether there was evidence for cause and effect.

Q. On page 4 of your corrected report, there's a paragraph, little iv. Do you see that?

A. Yes.

Q. In that paragraph, you state that "The errors do not indicate that the methodology used in my report is inadequate in any way." Why do you say that?

A. That the methodology -- I'm not doing anything to change the overall methodology by which I'm conducting the test. In other words, the error was not in methodology, it was in just in execution, and I stand by that the methodology I'm using hasn't changed in any way and is what is standard and regularly accepted.

Q. At some point, if you found additional errors, or at some point would the number of errors or repetition of errors or something cause you to question the methodology?

A. Not the overall methodology that I'm

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employing to test for market efficiency, no. I mean, it matters that the execution is accurate, but the methodology, itself, that I'm employing is something that I've used in many different reports and has been accepted many times.

Q. So it was the same methodology that you used in your corrected report that led you to conclude 3 of 17 events had statistically significant price movements as the methodology you used that previously led you to conclude that 4 of 17 had such movements?

A. Yes. I guess what I'm trying to say is the methodology didn't change. The execution of it did slightly because of an inadvertent error, but the methodology, itself, the approach to the problem or the question, has not changed in any way.

Q. In the next paragraph of your report on page 4, little v, you write that as part of your detailed review, you reevaluated whether it was appropriate to include Miller Energy's press release announcing the Q4 2011 earnings after market hours on August 30, 2011 as new news to be analyzed, given that information about Q4 2011

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earnings had been previously released.

Do you see that?

A. Yes. It says, "as further described below."

Q. And then you also say "I can confirm that it was appropriate to include this earnings release in my analysis." Right?

A. Yes.

Q. That was the first of the 17 events in your list; right?

A. That's correct, yes.

Q. You took a very close look at that to make sure that it was correct to include it?

A. Yes. I mean, I evaluated whether there was any information in that announcement that could still be considered new. Even if it was unlikely to cause a stock price movement, there was still some new information in that, so to be consistent with the methodology I employ, it was correct to include that.

Q. To be clear, that would be on Exhibit 7, event number 1; right?

A. Correct, yes.

Q. So in your corrected report, your event

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number 1 is the "Miller Energy Resources reports fourth quarter and year-end results," and your source is Business Wire; right?

A. That's the source that is listed, yes.

Q. And you used a date of August 30, 2011, and a market date of August 31, 2011; right?

A. Yes.

Q. So that's the one you took a really hard look at to make sure that was right?

A. Well, I took a look at all of them to make sure that they were right, but that's one of them I took a look at. And the reason I took an even closer look at that one is because as described in my report, some information had been previously already revealed about Miller Energy's fourth quarter 2011 earnings.

Q. So based on your additional work and your taking an even closer look at that, you're confident that event 1 is correctly listed here with a market date of August 31, 2011?

A. Yes.

Q. Turning to page 4 of your report, in paragraph little vi, you say that as part of your review, you performed additional analysis of the

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movements of Miller Energy's common stock to information concerning the original reporting of Miller Energy's fiscal year 2011 financial performance, and then it continues. Right?

A. Yes.

Q. And that section spans a few pages where you have detailed some analyses you did of that period of time; right?

A. Yes.

Q. So what you're describing here at the bottom of 4 through page 10 -- I'm sorry, through page 11 -- that's all new; right?

A. Yes.

Q. Those are new analyses that you performed after the first day of your deposition; right?

A. Yes.

Q. And so these are new opinions that were not expressed in your original report?

MS. POSNER: Objection.

A. Well, they're new analyses that I would say further support the opinion that was given in my opening report, but the analyses are new, yes.

Q. Your team conducted these analyses

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after completing your original report and after the first day of your deposition; right?

A. That's correct, yes.

Q. And these analyses relate to a study you did of a period outside of the proposed class period; right?

A. With the exception of the last date that I analyzed, that's correct. I think the last date is the beginning of the class period.

Q. I know you said that the corrections didn't change your ultimate opinion about whether there was cause and effect. Right?

A. Correct.

Q. And one of the changes that was made was you concluded that 3 of 17 instead of 4 of 17 earnings releases led to statistically significant movements in the price of Miller Energy's common stock; right?

A. Correct.

Q. If it dropped to 2 of 17, would it still be statistically significant, the difference between earnings releases and no news days?

A. I don't know for certain the answer to that, but I don't believe it would still be -- in

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terms of the percentage of days that are statistically significant, it likely would not be, but that doesn't mean that the other tests I performed wouldn't still be statistically significant.

Q. If one more event dropped out, though, and it dropped from 3 of 17 to 2 of 17, your conclusion about whether there was cause and effect would change; right?

A. Not necessarily. Again, I performed three different tests on the common stock to check for cause and effect. I studied the percentage of dates that are significant, the average absolute price movement after controlling for market factors, and also the volume on earnings dates versus no news dates, so it's not related just to the 3 out of 17 or 2 out of 17. There's more beyond that.

And also, the -- as I discussed in my prior deposition, and now I've outlined in this section, there are certainly, at least at an anecdotal level, other dates that make clear there's strong examples of cause and effect.

Q. You don't normally rely on anecdotal

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evidence; do you?

A. I don't normally completely rely on anecdotal evidence. I think if there's anecdotal evidence that reinforces or supports an opinion I'm giving, that it's also relevant to look into and I've pointed it out in a number of different reports.

Q. You wouldn't describe relying on anecdotal evidence as a scientific method; would you?

A. I think it would depend on the context of the question.

Q. If you had found only 1 of 17 events led to statistically significant price movements in the common stock, would your conclusion about cause and effect have changed?

MS. POSNER: Objection.

A. It may have.

Q. If you had observed no statistically significant price movements in response to any of the 17 events for the common stock, what would you have concluded about cause and effect?

A. I don't know the ultimate answer to that because if I had observed that, I would have

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carefully considered why I was observing that, whether there was a reason I was observing that, and whether or not the reason I was observing that is because for some reason the power of that test was low because of the nature of what was being disclosed, and thought about whether there was a more appropriate test that might have -- could be performed, or I may have concluded that there was insufficient evidence to support market efficiency, so I just don't know. That's not something I confronted.

Q. If you had found zero of 17 earnings releases led to statistically significant price movements in the common stock, would you have concluded that there was no cause and effect relationship and, therefore, there was no market efficiency?

MS. POSNER: Objection.

A. I think I just answered that, which is to say I would have -- certainly that analysis, in and of itself, would not provide evidence of market efficiency. What I would ask at that point is why am I observing what I'm observing. Is it because the market really wasn't focused on earnings and,

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therefore, a better test for cause and effect would be to look at other types of dates, or was it because there's really no evidence of cause and effect, and then I would conclude there's not sufficient evidence to support market efficiency.

So again, the reason I didn't get to that particular question is that's not what I observed.

Q. So if you had observed zero of 17 events leading to statistically significant price changes in the common stock, you would have done additional analyses and you might have nonetheless concluded that the market was efficient?

A. Again, it would depend on if there was other reliable evidence of a cause and effect relationship. I think if hypothetically I observed what you're suggesting, obviously, like I said, that test, in and of itself, would not provide evidence of a cause and effect relationship.

So I would want to understand why, if there were rationales why I was observing that, and if there was a test -- if there were more relevant dates to test that relationship, much as I did with the preferred stock in this case.

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It was clear that over large portions of the class or the analysis period, earnings date would not be something powerful to test and so I looked for other events that have strong economic rationale of why you would expect there to be material information that might move the stock price or the securities price, and then test that.

I mean, the reason I select earnings announcements in the first place is because there's literature that talks about why those are generally, not always, but generally important dates on which there can be value-relevant information that moves the stock price in a significant way.

But it's not the only types of dates. So it's not -- if you don't observe cause and effect from the earnings dates, I would say that's not completely dispositive of the question, but it certainly doesn't provide affirmative evidence if you find zero dates that are significant.

Q. Let me see if I understand this. I'm going to make several statements and see if you agree with them. Your methodology, as performed here, the regression analysis on the common stock,

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depending on the results, could allow you to conclude that there is evidence of a cause and effect relationship and, therefore, evidence of efficiency; right?

A. Yes.

Q. And it did in this case?

A. Yes.

Q. Your methodology, depending on the results, could lead you to conclude that there is no evidence from the test to support a finding of cause and effect and efficiency; right?

A. That's correct.

Q. Your methodology would never lead you to conclude that the market was inefficient?

A. I don't think it's designed to --

Q. Be falsifiable?

A. I'm sorry. I want to make sure I'm answering the original question. So let's just have a clear record, so if you want to ask me a different question.

MR. BALLARD: I interrupted you. I apologize. Let me have the question read back, please.

(Record read.)

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Q. Let me just state it again. Your methodology would never lead you to conclude that the market was inefficient; correct?

A. I think that would depend on the specific facts and circumstances and context. So if there were days where the news unambiguously in some way should have caused a very large change in how a company was being valued -- and I'm just going to throw out an example. Let's say a company's stock is trading at $10 a share and then they declare bankruptcy and the stock price doesn't move.

To me, that would be a sure sign of inefficiency, if the common stockholders are really getting wiped out in bankruptcy and the stock price doesn't move and reflect that. So I don't think it's incapable of that. It would really depends on the facts and circumstances.

By itself, finding zero out of 17, I think does not indicate inefficiency. It would really depend on analyzing the nature of the events, but I would not want to say that it's never possible.

Q. Would it be fair to say that you are

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testing for efficiency, not for inefficiency?

A. I think that's a fair -- I mean, in the way this is being tested, it's asking is there affirmative scientific evidence of efficiency. I think to get to a conclusion of inefficiency would take more detailed analysis beyond the test, itself.

Q. Let me ask you some questions about the footnote on page 4 of your report. Actually there are two footnotes. I want to focus on Footnote No. 2. Footnote 2 notes there were StreetSweeper reports that were not contained in either the Factiva or Investext databases that you used and relied on, and then you note that there was a Reuters article of October 13, 2014 that was included in the original Factiva search, but was incorrectly treated as having occurred during market hours instead of after market hours. Right?

A. Yes.

Q. So this is referring to the corrections you made as to which days were no news days?

A. Yes.

Q. And then you note that you're now confident that the methodology you employed and

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have used in other reports to identify no news dates will reliably identify days on which major news related to the company is released; right?

A. Yes.

Q. And you note later that it's necessarily not perfect; right?

A. Correct.

Q. And then I guess my question on this is, so you use Factiva and Investext as your data source to identify certain days that were news days; right?

A. Yes.

Q. And it turned out that those data sources had some either incorrect or missing -- or they were missing information on the date or time of news items; right?

A. Well, I think I acknowledged in my initial report that Investext, which is a source for analyst reports, doesn't have universal coverage and that's a well-known fact. So I acknowledged, even in my opening report, that I'm likely missing some analyst reports or at least there's the potential to be missing some analyst reports. And as I say here, StreetSweeper wasn't

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covered so I wouldn't characterize that as an error of any kind. It's just the reality that that source does not have universal coverage.

And to the extent it's missing reports that might be considered new news, it could be classified -- it could result in there being a date classified as no news when there really was an analyst report, but again, that would bias against the findings to the extent that those reports had a tendency to move the market.

What I found is that that issue tends not to be a -- in most cases, tends not to be a big issue, because the process by which I identify news dates typically picks up any time there was major news.

Q. What did you do, if anything, to check to see if there were any other errors or omissions in the databases you used?

MS. POSNER: With regard to Factiva and Investext?

MR. BALLARD: Yes.

A. I didn't perform any other checks. I continued to rely on those.

Q. You mentioned this question of which

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way errors would bias the results, and you do note in Footnote 2 that the inadvertent treatment of a potential news day as a no news day would, if anything, bias against finding a cause and effect relationship.

You just referred to that; right?

A. Yes.

Q. But when you just mentioned earlier, you said that the inadvertent treatment of a potential news day as a news day would, if anything, bias against finding a cause and effect relationship if that news day impacted the market price. Right?

A. Well, yes.

Q. And only if?

A. Well, no, no, no. Again, what I'm saying is there's two possibilities. One is the news that is missing was not an important value-relevant piece of news and didn't move the price, and, therefore, doesn't bias the test in any way in either direction, or to the extent there's a report or news item that somehow was missed in this process, and it did impact the price, that would tend to bias against a finding of cause and effect

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because it may have impacted the market price.

Q. Let's take an example. You originally had 318 no news days; right?

A. Yes.

Q. You changed it to 316 no news days; right?

A. Yes.

Q. So you identified two days you originally treated as no news days inadvertently and you're now treating them as news days, so you've taken them out of the denominator; correct?

A. Yes.

Q. So in your original report, you said 14 of 318 no news days led to changes in the market price.

A. Yes.

Q. In your revised report, you found that 14 of 316 no news days led to changes in the market price; correct?

A. Correct.

Q. The denominator changed; right?

A. Yes.

Q. The percentage went up if the denominator went down; correct?

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A. Yes.

Q. Which narrowed the gap between no news days and earnings releases; right?

A. Correct.

Q. The correction of errors confirms that, in fact, the inadvertent treatment of potential news days as no news days biases for, not against, a finding of cause and effect relationship; correct?

A. Well, I think that would certainly -- I mean, the change here is miniscule. The point I'm making is in a large sample, that would certainly be true, because there's only two dates being changed here and it didn't change the significance level -- hold on just one second.

Q. My question wasn't about the size of the change and whether it was miniscule. My question was about bias, which direction it points, and it was a yes or no question.

MS. POSNER: Objection.

A. Yeah. Overall, the bias would be the way I describe in my report. Here, in this particular situation, we're not looking at a large sample, we're looking at having changed two dates,

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and it had a miniscule effect on the results. So that's not necessarily reflecting any overall bias because it's such a small sample size.

Q. If you treated ten extra news days as no news days and each of those news days were days when there was news that did not actually result in a price change, what would that effect be on your analysis, which way would it bias the analysis?

THE WITNESS: Can I have that read back, please.

(Record read.)

MS. POSNER: Objection.

A. Again, I think mathematically in what you're describing isn't -- when I'm talking about bias, I'm talking about overall, adopting the methodology, how would you expect it to influence what you're looking at. I mean, the example you're giving, it would mathematically change the numbers, but I don't think that's changing the direction of the bias.

Q. It would change the numbers in a way that would make you more likely to find a cause and effect relationship; correct? It would narrow the percentage between news days and earnings days that

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lead to market changes in the price?

A. Right. I mean, what I'm saying is, from an economic point of view, what you would expect is that you would, in a large sample size, expect the bias to be the other way, but in a small sample size, what you're describing could occur.

And again, I wouldn't consider that bias as much as I would say that that's just, you know, given -- you couldn't predict over small changes in classification of news dates or no news dates, it could go either direction, but in a large sample, the bias would be against finding cause and effect.

Q. You are aware that no news item in this case, no category of news item, was likely to lead to a price change in a statistically significant way; right?

MS. POSNER: Objection.

A. I don't know what you mean by category of news item.

Q. We have earnings releases. You found 3 of 17 of those led to statistically significant price changes; right? 11 percent or something?

A. I think it's 17 percent.

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Q. 17 percent?

A. Yes.

Q. Okay. You have SEC filings, you have news articles and you have analyst reports. Those are the categories that you identified of news; right?

A. I think for the preferred's, I identify other categories of news.

Q. Focusing on the common stock, those are the four categories of news you identify; right?

A. Yes.

Q. None of them was anywhere close to 50 percent likely to result in a statistically significant movement of the price; right?

MS. POSNER: Objection.

A. Nor would you expect it to be necessarily.

Q. So if you take days where there was news as you have defined it, a small or large sample of them, and you take them and you treat them as no news days incorrectly, that would bias for, not against, finding a cause and effect relationship, correct, as a matter of math?

MS. POSNER: Objection.

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A. Again, I think you're subsuming into the question a particular result. So I'm approaching it from the broad methodological point of view that if you believe there is -- could I have the question read back again, please.

(Record read.)

MS. POSNER: Objection.

A. Again, I think for certain samples, that may be true. I mean, taken to its extreme, that is certainly not true, because if you just took the earnings dates and added it to the no news dates, obviously that would eliminate any difference between -- and treated those as no news dates, it would narrow the gap.

I guess I acknowledge it's possible that if there are categories of news dates that tend not to move the stock price, and you add more, that could add bias in the other way.

Q. You said it could be true for certain samples. If we take the data in Exhibits 45 through 49, your data from this case, it's true for that sample; correct?

A. I don't know that for certain without doing some calculations, but it's likely true.

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MR. BALLARD: We've been going about an hour. Let's take a break.

THE VIDEO TECHNICIAN: We're going off the record. The time is 10:01 a.m.

(Recess taken.)

THE VIDEO TECHNICIAN: This begins Media Unit No. 2. The time is 10:15 a.m. We're back on the record.

Q. Mr. Coffman, I'd like to direct your attention to page 15 of your corrected report.

A. Okay.

Q. In the carryover paragraph from the prior page, you refer to unique and complicated release of earnings information for Q4 2011; do you see that?

A. Yes.

Q. And you state that it provides both additional strong evidence that the market for Miller Energy securities was efficient during the analysis period, and also on whether the prices were impacted by KPMG's audit reports; right?

A. Yes.

Q. On the first part of that, are you saying that your analysis of events prior to the

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proposed class period provides evidence of whether the market was efficient during the proposed class period?

A. Yes.

Q. Is that a typical methodology, to examine one period for the purpose of finding evidence of efficiency in another period?

A. Well, there have been a whole host of reports I've filed where given the length of a particular class period, I've used an expanded analysis period that goes beyond the class period to get more data and evidence to evaluate cause and effect, and that makes sense as long as there's no structural change in the mechanics of how the market is operating.

If you see evidence of cause and effect just prior to the beginning of the class period, there's nothing magical about the beginning of the class period that would suggest that suddenly cause and effect has gone away. So I do think it provides relevant economic evidence.

Q. Would you say that the study of events outside of a proposed class period is not a standard scientific method for attempting to prove

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efficiency during the proposed class period?

A. I would disagree with that. I look outside class periods all the time to gain evidence about the operation of the market and whether it was efficient. There's nothing -- like I said, there's nothing magic about the beginning of a class period that suggests somehow that whether the market is efficient or not would change.

Q. In paragraph vii on page 5, little vii on page 5, you refer to the StreetSweeper publication. Do you see that?

A. Yes.

Q. That was on July 18, 2011; right?

A. Yes.

Q. And that was during market hours?

A. Yes.

Q. And then you say, "The intraday price chart below shows an immediate market reaction to that news and demonstrates that the company lost over 20 percent of its value."

Do you see that?

A. I do.

Q. And you're in that referring to the chart that appears on page 6?

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A. Yes.

Q. You also state that on this date, your event study indicates that "the market price of Miller Energy common stock fell by 23.4 percent after controlling for market and industry effects. This abnormal price decrease is statistically significant at the 99 percent level with a t-statistic of -8.83"; right?

A. Yes.

Q. So this price decrease that you've described here took place prior to the beginning of the proposed class period on July 28, 2011; is that right?

A. That is correct, yes.

Q. This was before the first alleged misstatement by KPMG; correct?

A. Yes.

Q. You interpret this to be a reaction to the StreetSweeper report about the alleged overvaluation of the Alaska Assets?

A. I do attribute it as a stock price decline related to the StreetSweeper article. I believe that article discussed the Alaska Assets. It may have discussed other things as well, but the

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market did clearly respond to the StreetSweeper article.

Q. So in your expert opinion, the risk of overvaluation of the Alaska Assets was made public in the StreetSweeper article and immediately affected the price of Miller Energy's securities; is that right?

MS. POSNER: Objection.

THE WITNESS: Could I have that read back, please.

(Record read.)

MS. POSNER: Objection.

A. I think the market price clearly reflected whatever was in the StreetSweeper report. Part of their opinion was that the Alaska Assets may be overvalued or were overvalued, so certainly their opinion or views were priced in the market price at that point in time. I don't know that I would go beyond saying it that way.

Q. On page 6 of your report, you refer to some events on July 29, 2011.

A. Yes.

Q. You note that on this date your event study indicates that the market price of the common

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stock fell by 17.66 percent after controlling for market and industry effects, and that the abnormal price decrease is statistically significant at the 99 percent confidence level; right?

A. Yes.

Q. So again, this was another decline in the price that took place prior to the beginning of the proposed class period before the first alleged misstatement by KPMG; right?

A. That's correct, yes.

Q. And again, you are interpreting this additional decline in the price to be a reaction to the disclosures in the StreetSweeper report?

MS. POSNER: Objection.

A. I think that's a logical conclusion. I don't know that I've studied every last possible thing that could have been going on on July 29th, but given that this is -- there had not even been a full trading day for the stock price to react to the StreetSweeper article, I think there's strong evidence that the StreetSweeper article is likely a primary cause of that, yes.

Q. As a general matter, in an efficient market, if a risk is disclosed and incorporated

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into the price of a security, and then later the same risk is disclosed again, would another price reaction at that point be a sign of inefficiency?

A. Not necessarily, because there could be intervening information that affected the market's assessment, or the severity of the risk or likelihood of the risk could be changing in the market's mind.

So I mean, I wouldn't jump to that conclusion without much further study.

Q. Let's turn to page 8 of your report. On this page, you refer to law firms announcing investigations by the evening of August 1, 2011. Do you see that?

A. I see that.

Q. Where did you get that information?

A. As I sit here right now, I don't recall where that specific information comes from.

Q. You indicate that you evaluated the decline in Miller Energy's common stock on August 2. Were you attributing that decline to the law firm announcements that you referenced in this paragraph?

A. I mean, it could have been continued

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reaction to the 8-K filing the prior day. It could have been in reaction to the law firms announcing investigations. Those I think are the primary sources of new news on these days, including Miller Energy also released an open letter to shareholders.

But I haven't done a full study of all the possible things that could have been moving the price, but those were the things that I reviewed that struck me as the most likely sources of the price movements.

Q. Would it be fair to say that as a general matter, in a period when there are a lot of things going on, lots of public statements and filings happening, it's more difficult to isolate cause and effect?

A. I think it can be more difficult to isolate exactly what is causing which price -- that can make it more difficult to analyze exactly which statements are causing which price movements, but it really depends on the facts and circumstances, because if most of the information is not new or repeated and you can isolate which filing actually has new information that the market would care

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about, then it might not be. So I think it really depends on the facts and circumstances.

Q. Please turn to page 30 of your report.

A. Okay.

Q. Earlier we identified this change in paragraph 47 where you took the words "very end" out and added the phrase "towards the end of the analysis period." Do you see that?

A. I think you said paragraph 47 so I want you to clarify your question.

Q. Looking at paragraph 46 you made a change to the wording there; right?

A. Yes.

Q. Why did you make that change?

A. Because I thought "very end" could be misinterpreted and I thought "towards the end" is a better description.

Q. I want to talk about your study of cause and effect in your regression analysis, so let's turn to that section of that report beginning on page 31.

Do you have that?

A. Yes.

Q. I believe if you turn to page 33, you

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will see Footnote 62. Do you have that?

A. Yes.

Q. In Footnote 62, you have changed the number of outliers from 2 to 3; right?

A. Yes.

Q. And it looks like you added July 28, 2011 with regard to market reaction to the StreetSweeper article alleging potential fraud in Miller Energy's subsequent 10-K as a new outlier; right?

A. Yes.

Q. Did you analyze the market reaction to that StreetSweeper article?

A. Yes.

Q. Is that what you described in your report at page -- what page?

A. 5 and the chart on page 6.

Q. Got it. Was the reaction to the StreetSweeper article from July 28, 2011, statistically significant?

A. Yes.

Q. That's the reaction we talked about earlier?

A. We talked about others, but yes.

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MS. POSNER: Objection.

Q. Got it. We can move on to the next item here. Let's turn to page 38. In paragraph 61, on page 38 of your report, you indicate that three events resulted in statistically significant price movements at the 95 percent confidence level in your event study of the common stock; right?

A. Yes.

Q. That was what you had changed from 4 in your original report?

A. Yes.

Q. Then in paragraph 62, you say you compared these results against the 316 days during the analysis period that were no news days. That's what you changed from 318 in your original report; right?

A. Yes.

Q. And then you say there were 14 no news days that had statistically significant price movements. That didn't change?

A. Correct.

Q. And then in paragraph 62, you say, "Thus, during the analysis period, there was a statistically significant price reaction at the 95

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percent confidence level on 17.65 percent of the earnings announcements."

That figure changed from 23.53 percent in your original report; right?

A. Yes.

Q. And then in paragraph 62, you continue to say, "But when compared to days with no Miller Energy-related news, I observed statistically significant reactions 4.43 percent of the time."

That percentage changed from 4.4 percent in your original report; right?

A. Yes.

Q. So both the numerator and the denominator in that calculation changed?

A. No. Just the denominator.

Q. You're right. So the numerator in the first comparison of the earnings release has changed and the denominator in the no news days changed?

A. Correct.

Q. Then looking at Footnote 71, I guess the only change there is the three earnings announcements; right?

A. Yes.

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Q. And then in Footnote 72, you do the calculation of statistical significance and you say the difference between 17.65 percent and 4.43 percent is statistically significant at the 95 percent confidential level. So this is just you've rerun the calculation with the new numbers?

A. Correct.

Q. And concluded that 3 of 17 is still statistically significant compared to the no news result; correct?

A. Correct.

Q. Going back to what we said earlier, if it dropped to 2 of 17, you believe that would not be statistically significant; right?

A. That I believe is likely the case, yes. Again, that's not the only relevant test, but for that particular test, that's correct.

Q. In Footnote 73 you write, "There is no statistically significant difference between 4.43 percent and 5 percent. This is within the proportion of dates that would be significant by chance alone when using a 95 percent confidence interval."

Can you explain that?

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A. Sure. So if you have a model where you're testing for significance at the 95 percent confidence level, by chance alone, you would expect 1 out of every 20 dates or 5 percent of the no news dates to be statistically significant. So this is just saying that the 4.43 percent isn't statistically different than the 5 percent you would expect by chance alone.

Q. Does that mean you could have run your analysis without even looking at no news days, you could have just compared the result you got for earnings releases against 5 percent?

A. I think that would have been a less powerful test but in -- you could -- I guess it's possible to devise that sort of test. I don't think that would be as reliable or accurate a test because then you're not actually using sample data points. You're just assuming what the no news results would be.

Q. But the 5 percent at least doesn't require you to rely on data sources, whereas your test does, and we know there are errors in your data source; right?

MS. POSNER: Objection.

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A. Well, it's also an implicit test of whether the model is working well. In other words, the 5 percent is a hypothetical number, it's not an actual what-you-observed number. So if you're comparing -- let's say you're doing a test of a new drug and you give it to -- you give it to -- you give the real drug to some patients and they do better than would be expected by just giving a placebo. You can't just make an assumption about what the placebo effect is, you actually test it. So that's the importance of actually testing the no news dates for the given security.

Q. In paragraph 63 of your corrected report, in the first line, there's a reference to the 316 days with no news. We already talked about that. That was changed from 318. Right?

A. Yes.

Q. And then in the next line, you refer to the average change in price of the common stock as 2.52 percent. That changed from 2.53 percent in your original report?

A. Yes.

Q. Then in the last line, there's a reference to the average change on earnings dates

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of 4.16 percent. That changed from 4.37 percent?

A. That's correct.

Q. On page 39 of your report, you have included a chart regarding the percentage of days significant at the 95 percent confidence level. Do you see that?

A. Yes.

Q. This is just a graphic representation of the data we just discussed; right?

A. Yes.

Q. So the blue column is now representing the 17.65 percent instead of what you previously had as 23.53 percent?

A. Yes.

Q. And the reddish orange column is now the 4.43 percent instead of what was originally 4.4 percent; right?

A. Yes.

Q. So looking back at your original report, the charts from a distance look almost identical, but that's because you changed the scale; right?

A. Yes. The scale has changed.

Q. That's to emphasize the difference

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between the two columns; right?

A. There's still a statistically significant difference between the two columns.

Q. Looking at Footnote 74 on this page, there's another calculation of statistical significance and this one is the 2.52 percent average change in the price of the common stock versus the 4.16 percent average change in the common stock on earnings dates; right?

A. Yes.

Q. Those numbers changed from whatever you had before, but you found that there are still statistically significant differences?

A. Yes. It was a very small change from 2.53 to 2.52 and then a change from 4.37 to 4.16.

Q. Those data points are shown on the chart on page 40?

A. Yes.

Q. So again, this chart would have changed at least slightly from what you had in your original report; right?

A. Yes.

Q. And then in paragraph 65, it looks like you have some data on trading volume where you have

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a reference to 71 million. Do you see that?

A. I think it's .71 million.

Q. Good point. .71 million, that's the average daily trading volume on the 17 days with earnings announcements; right?

A. Yes.

Q. That came down from .72 in your original report; right?

A. Yes.

Q. And then you compared this to the average daily trading volume with.34 million for no news days. That's a change from .35 million in your original report; right?

A. Yes.

Q. And it looks like you have a chart showing that on page 41; right?

A. Yes.

Q. That one also changed slightly from what you had in your original report?

A. Yes.

Q. Let's turn to page 60. In paragraph 104 of your corrected report, you write, "Any negative causation evidence would be applicable to each class member as opposed to relevant for any

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specific investor."

What did you mean by that?

A. Meaning --

MS. POSNER: I'm sorry, where are you?

MR. BALLARD: Page 60, paragraph 104.

A. I mean that any evidence regarding what was causing the stock price to be moving -- so let me take a step back. I understand negative causation is something that defendants have the burden of proving for a Section 11 case, meaning that the stock price declines or security price declines were caused by something other than the fraud.

And what I'm saying here is that whatever negative causation analysis would be done would be done -- could be done on a class-wide basis, not on an individual investor basis, because the reasons the stock price was moving would not be specific to any individual investor.

Q. I think I got it. So when you said applicable to each class member, you didn't mean it would have to be proven individually for each class member. You meant it could be proven on a class-wide basis?

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A. Yes.

Q. So if the decline was caused by changes in oil prices, that could be proven on a class-wide basis for example?

A. If that were considered negative causation information, yes.

Q. Going back to what we talked about earlier about the 4.43 percent of no news days that had a statistically significant price movement, do you recall that discussion?

A. Yes.

Q. If you want to look at your report in the regression analysis, it's on page 38.

A. I know which number you're referring to, yes.

Q. We talked about that and the 5 percent a little while ago. So the 4.43 percent is basically the measure you're comparing against, right, when you're testing the earnings releases to see if they have a market effect, a price effect?

MS. POSNER: Objection.

A. That's one of the things I'm testing against.

Q. What other things are you testing

against?

A. The average stock price movement on those dates, the average volume on those dates.

Q. If you found that the number of days was not significant, then the other factors wouldn't matter much; would they?

MS. POSNER: Objection.

A. I don't follow that.

Q. If you found zero out of 17 days of earnings releases had statistically significant price movements, it really wouldn't matter much how much volume there was on those days; right?

A. The volume test, itself, might not matter as much, but the average stock price movement still would be relevant.

Q. So in this comparison where you compare the 17.65 percent of earnings announcements, 3 out of 17, that had statistically significant price movements with the 4.43 percent of no news days that had such movements, you drew conclusions about cause and effect; right?

A. Yes.

Q. Can you explain what your conclusions about cause and effect were?

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A. My conclusion is that consistent with what you would expect to see in an efficient market, their earnings announcements, which provide at least sometimes, not all the time, but at least sometimes, the academic literature has shown, provide new value-relevant information to investors, had a greater tendency to move the stock price than when there was no news, and that directly goes to the idea of Cammer factor 5, which is that there's a cause and effect relationship between news and information that is being released about the company.

Q. In your analysis, did you attempt to exclude other possible causes?

MS. POSNER: Objection.

A. When you say other possible causes, I want to make sure I understand. When I'm looking at the earnings announcements, I'm looking at all the information in the earnings announcements, not any specific number or -- I guess the test is looking at the mix of information that is released on those days.

Q. Well, did you do anything, to control for the price of oil?

C. Coffman

A. Yes.

Q. Did you do anything to control for movements in the S&P 500?

A. Yes.

Q. Did you do anything to control for anything other than those two things?

A. Not explicitly, no.

Q. So you didn't attempt to exclude any other possible causes of the price movements beyond changes in the price of oil or the S&P 500 index; right?

MS. POSNER: Objection.

A. That's correct.

Q. Let's turn to Exhibit 7 of your corrected report. I'm going to ask you some questions about the changes that were made to Exhibit 7 so you might want to have the redline handy.

A. Okay.

Q. So in Exhibit 7, you have obviously 17 events. We talked about that. And for each event, you have data across 12 columns; right?

A. Other than the numbering column, yes.

Q. And each column was intended to give a

C. Coffman

separate piece of relevant information?

A. It's providing summary information. I mean, what matters is the results of the event study ultimately, but it provides information about the timing of the events, yes.

Q. I mean, you had included each column for a reason; right?

A. Yes.

Q. To show something?

A. Yes.

Q. So 17 columns -- I'm sorry. 17 rows and 12 columns of data. 204 pieces of data on this chart; right?

A. I'm trying to do the math in my head but I'll believe you that 17 times 12 is 204.

Q. It's beyond the usual multiplication tables I recognize. I count of the 204 pieces of data displayed on this chart in your original report, 41 of them were incorrect.

MS. POSNER: Objection.

Q. Is that right?

A. Again, I don't think that incorrect is the right way to characterize it. I would say for what ultimately mattered, there was one correction,

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which is the timing of -- because all that really matters ultimately for getting the analysis right is identifying the correct earnings date, and I did that for all but one of the dates.

Updating all of the results for that change created some changes to some of the numbers, and then as described in my report, I made an effort, in going back and checking a variety of sources and the timing of the news information, updated the exhibit to show what I could determine was the earliest version of the earnings release that I could identify. So that changed the specific source I was citing, the time of day that it was occurring, but it also really didn't change any of the analysis.

Q. You changed these 41 data items because they were wrong in your original report; correct?

A. I changed them because it updates my -- it reflects an update to the analysis. The only thing that resulted in a -- that was incorrect in terms of how it affected the analysis was the timing of event 9.

Q. Well, let's take an example. In event 1, you originally said the abnormal return

C. Coffman

percentage was .46 percent. Was that correct or incorrect?

A. That did not reflect treating one of the outlier dates as an outlier date. So it wasn't incorrect from a -- it was the wrong calculation. It reflected the analysis at that point in time.

I now believe it's more appropriate to leave out one additional outlier date, as I described, but I don't think the original number was wrong. I think this is an updated number.

In other words, that wasn't the result of an error. That was the result of a slight change in identifying outlier dates that I think was appropriate. The one thing that was just flat out wrong and was an error was the timing on event 9.

Q. For event 3, in your original report, you found nothing for significance level, and then you have an asterisk for that event in your corrected exhibit. Which is correct?

A. I'm relying on my updated, corrected analysis which shows that date is significant at the 90 percent level. It was a relatively small change in the abnormal return, but it pushed it

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over the threshold of 90 percent.

Q. So would you say that the original report, in having no asterisk there, was incorrect and your corrected report is correct?

A. I think this is more reliable. Again, that wasn't due to what I would consider an error. It's really an update.

Q. So whether we call them corrections or updates, you have 41 of 204 corrections or updates in this chart. Correct?

A. Yes.

Q. Over 20 percent of the items here have been corrected or updated; right?

A. If you count it that way. I don't think that's a particularly relevant way to count it given the substance, but if you count it that way, that's fair.

Q. Let's take a look at an example. Take time of day. You've got 9 out of 17 of those wrong, right, in the original report?

A. Again, I don't -- the time of day of the -- what I was citing was not wrong. What has been reflected here is an updated analysis to make sure I was grabbing the earliest time, which

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required relying on some of these for a different source which slightly changed the time of day.

Again, by -- it doesn't change which market date is relevant. It just changes the earliest time that the news was identified, and I changed the source that reflects that.

So, in other words, let's take event number 2. There was a "Miller Energy Resources reports first quarter result," reported by Business Wire at 5:22 p.m. on September 9th. That was not wrong. It was correct.

I'm just saying in my updated analysis, I've reflected that there was actually a -- I identified that the 10-Q was published on the SEC website 12 minutes earlier, and while that doesn't change anything in the analysis, I wanted to reflect that.

Q. Are you saying it was not important for you to get the right time for these items?

A. I think getting the right time -- getting the earliest time, as long as it was on the correct market date, was not material to the analysis at all. That's what I'm saying.

Q. Given the nature of the analysis you

C. Coffman

were doing, trying to test for whether there was a market reaction, a rapid reaction in the price to new information, wasn't it really, really, really important to figure out when the new information first came out?

MS. POSNER: Objection.

A. It was really important to figure out which was the appropriate market date to analyze. It was -- the difference between 5:10 p.m. and 5:22 p.m., given the nature of my analysis, was not important.

Q. So you're saying you're lucky that when you identified the wrong release of information, you're lucky that it so happens the correct release of information wasn't the day before or during business hours; right?

A. I don't know that I would use the word "lucky." It's that it didn't change it.

Q. Well, in one instance, it did.

A. Again, in a prior -- in many prior cases, I've relied on the timing of the Business Wire reporting of earnings as reflecting the appropriate data to analyze for earnings announcements.

C. Coffman

In this particular case, there was one time, and this is an unusual occurrence, but there was one time that what came up out of that process was a correction rather than the original report, and for the other 16 dates, it resulted in looking at the right earnings date.

I mean, in my experience, the Business Wire story comes out very quickly after earnings announcements, and in all of the other matters in which I've relied upon that, it didn't result in any error.

Q. And you're sure that's true for event number 1 as well?

A. I believe we looked carefully to see if there was anything earlier than 4:22 p.m. on event 1.

Q. So in this test, you were at least attempting to identify when Miller Energy first released its earnings for each event; right?

A. Well, I was looking for when the market date upon which Miller Energy securities, common stock, would have been reacting to an earnings announcement, yes.

Q. And you were looking for the time as

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well?

A. Yes.

Q. And in nine of those instances, your process or methodology or work resulted in you getting the wrong time; correct?

A. Again, in all but one, it didn't matter for the analysis, for any substance of the analysis. It was giving me the right earnings announcement date to analyze. In one case, it was incorrect.

Q. Well, in nine instances, the time you put in your original report was incorrect; correct?

A. I think you're just pointing out that there could be some time difference between Business Wire and certain other sources hitting the public market, and I wasn't always picking up the very earliest one.

Q. And my question is, did that happen in nine of 17 instances?

A. Yes.

Q. Turning to the column for abnormal return, there were six instances where you changed the abnormal return that was reported in your original Exhibit 7; is that right?

C. Coffman

A. That's correct.

Q. And then for abnormal dollar change, it looks like four of these changed; right?

A. Well, they all would have changed to some -- I mean, all six would have changed to some slight degree. It's just that two of them, the change is so small that due to rounding, it doesn't result in any change.

Q. And then for the significant level column, it looks like 2 of the 17 items have changed; right?

A. That's correct.

Q. On the event number 1, where you refer to the Q4 2011 earnings and you cite Business Wire, you have a market date of August 31, 2011. Do you see that?

A. Yes.

Q. You are aware that the Form 10-K was filed on August 29, 2011; right?

A. Yes.

Q. And you're still confident that you have the right market date for that one?

A. Yes.

Q. And why is that?

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A. Because there was an earnings announcement released by Miller Energy in the afternoon on August 30th, 2011.

Q. In your report, you indicate that the Form 10-K -- I'm on page 7 -- came out after market hours on July 29, 2011. Do you see that?

A. I thought you were asking me about August.

Q. Good point. I'm looking in the wrong place. Okay. So August.

When was the Form 10-K for 2011 filed?

A. Are you talking about the original one or the amended one?

Q. Amended.

A. The final amended one -- my understanding is there are two amended ones, but the final amended one, my understanding is was filed August 29th, at 7:46 a.m.

Q. So before the markets opened on the 29th; right?

A. Correct.

Q. And notwithstanding that, you believe you have the right market date for event 1?

A. Yes, because as I described in the

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report, there's still a, quote-unquote, earnings announcement released on that day that at least contains some additional information, and so to be consistent with my general methodology, I included that date.

And I acknowledged -- just to be clear, I mean, I acknowledge in the first section of the report that there were some earlier disclosures that contained earnings information for Q4 2011.

Q. For event 5, you originally had a Business Wire source for your headline and you've changed that to the Form 10-K; right?

A. Yes.

Q. So why did you change 5 and not 1?

A. Because as I've described in the report, I'm attempting to identify dates on which new earnings information came out. So like I described in the report, the release of fourth quarter 2011 earnings is much more complex than the other date.

On date 5, the 10-K and the earnings announcement and the Business Wire all came out within a matter of hours with each other, all after market on the same day, so I was just identifying

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the earliest release of fourth quarter information. I'm not saying that's the only source of information on that day.

In other words, the Business Wire article also contains information, but I'm just identifying the first one on that day that contains fourth quarter information.

Q. For events 5 and 9, you identify the 10-K as the first release of earnings for the fiscal year 2012 and 2013; right?

A. Because those came out before the Business Wire articles on those days.

Q. But the same is true for event 1. The 10-K came out before the Business Wire article; right?

A. Right, but it's actually on separate days and providing different information. So that was a relevant difference.

Q. Okay, I think I've got it. You're confident you've got the right date for event 1?

A. Yes. Again, to be clear, I'm acknowledging in my report that there is some fourth quarter 2011 earnings information out, in fact, most of it out before that date, but I still

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think it's a relevant date to consider because there is some -- at least arguably some new information included in that particular earnings announcement.

Q. In the footnotes to your Exhibit 7, I just want to make sure we've identified all the changes, but I think we've talked about this in another context. But in Footnote 1, it looks to me like there's a change. You changed two outliers to three outliers; right?

A. Yes.

Q. And then you added a reference to the StreetSweeper. I think this is the same as what you included in the text of your report.

A. Yes.

Q. And in Footnote 2, you added the sentence we talked about last time we met about statistical significance at the 90 percent confidence level being indicated by one asterisk; right?

A. Yes.

Q. That was just inadvertently left off your prior exhibit; right?

A. Yes.

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Q. Let's turn to Exhibit 8. So Exhibit 8 is your comparison of statistical significance and abnormal returns for common stock earnings announcements against no news dates; right?

A. That's part of what is on there. There's also a comparison of average absolute returns and volume as well.

Q. I was just trying to read the heading. Your heading of Exhibit 8 states, "Comparison of Statistical Significance and Abnormal Returns for Miller Energy Common Stock Earnings Announcements Versus Days With No News During the Analysis Period."

A. That's the title, yes.

Q. And there a few items of data here. It looks like there's a number, significant days at 95 percent, percentage of significant days at 95 percent, and average absolute abnormal return followed by average volume; right?

A. Yes.

Q. And it looks like ten items of data are reflected on this chart; correct?

A. Yes.

Q. In your original Exhibit 8, seven of

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the ten items were incorrect; is that right? I take that back. Let me rephrase that.

In your original Exhibit 8, six of the ten items of data were wrong; is that right?

A. Six of the ten have been updated to reflect the correction of an error, yes, or correction of errors, yes.

Q. And those changes are also made in the footnotes; right?

A. Yes.

Q. So in terms of significant days, the number went from four to three; right?

A. Yes.

Q. The percentage went from 23.53 percent to 17.65 percent. Right?

A. Yes.

Q. And the average absolute abnormal return went from 4.37 percent to 4.16 percent; right?

A. Yes.

Q. And in the right-hand column, 318 became 316?

A. Yes.

Q. 14 stayed the same for the number of

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significant days at 95 percent confidence; right?

A. Yes.

Q. And the percentage of significant days went up to 4.43 percent from 4.0 percent; right?

A. 4.40.

Q. 4.40. And then the average absolute abnormal return went from 2.53 to 2.52 percent; right?

A. Correct.

Q. Let's look at Exhibit 9. Exhibit 9 summarizes the event study you conducted with respect to the C series; right?

A. Yes. This is part of it. It's the dates -- the news dates that I considered for the Series C. There's obviously other dates I considered in terms of the no news dates, et cetera, but this reflects part of the event study analysis, yes.

Q. And on this page you made the same changes on the footnotes regarding outlier dates and on statistical significance at the 90 percent level we already talked about?

A. Yes.

Q. And then it looks like you've changed

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the market or the date for one of these items; is that right?

MS. POSNER: Can you direct us --

Q. It looks like event 1, the date changed.

A. The market date didn't change, but the -- I show the first announcement as being reflected on the evening of the 30th instead of the morning of the 31st, that is correct.

Q. And you added a time where you had none before; right?

A. Correct.

Q. So again, you were lucky that in looking at the wrong source, changing it to the correct source was at least after hours so it didn't change the market date; right?

MS. POSNER: Objection.

A. Again, I wouldn't say it was lucky. It's that that source generally allows getting the market date correct.

Q. You changed for this event also the headline source that you referred to.

A. That probably just reflects that I was -- I'm citing a -- the source that came out at

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7:35 p.m. the prior night rather than the one that came out in the morning.

Q. It looks like you changed the sources you used under headline for events 5 and 7 as well; right?

MS. POSNER: Objection. 7 is just a change in capitalization.

MR. BALLARD: Okay, hold on. Okay. Let me rephrase that.

Q. You changed the source that you used for event 5 as well; right?

A. Yes.

Q. And it looks like you made a change to the heading at the top. Where in your original Exhibit 9, you had the heading, "Rolling Event Study Regression 120-Day Window," it looks like you changed that to "Two Fixed Event Study Regressions."

A. Yeah. That was -- I mean, in my prior report, in the text, I described how for the preferred securities, I used two fixed event windows rather than the 120-day rolling. The 120-day rolling window heading was inadvertently carried over onto these exhibits.

C. Coffman

Q. So in Exhibit 9 of your original report, that was just a typo on the heading?

A. Yes.

Q. So you fixed that?

A. Yes.

Q. Let's turn to Exhibit 10, please. Exhibit 10 is your comparison of statistical significance in abnormal returns for Miller Energy Series C preferred stock material announcements versus days with no news during the analysis period; right?

A. Correct.

Q. And this, again, has ten items of data on it; right?

A. Yes.

Q. Four of these items were incorrect in your original Exhibit 10; right?

A. As a result of errors described -- correcting the errors described, it changed four data items, yes.

Q. So the number in the right-hand column changed from 194 to 192?

A. Correct.

Q. The significant days at 95 changed from

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11 to 9?

A. Yes.

Q. And the percentage of significant days changed from 5.67 percent to 4.69 percent?

A. Correct.

Q. And the average absolute abnormal return changed from 1.35 percent to 1.28 percent?

A. Correct.

Q. And again, there were changes in the footnotes regarding the number of days on which there was no news; is that right?

A. Correct.

Q. In this instance, because the period of time was different, from the common stock, you had 192 no news days in your revised Exhibit 10, whereas you had 194 in your original exhibit; right?

A. Correct.

Q. And then you note, at the end of Footnote 1 of Exhibit 10, two other dates with corrective information that were not reported in the initial report. 12/24/13 and 10/14/2014 have been added as news dates. Did I read that correctly?

C. Coffman

A. Yes.

Q. That's new, you added that; right?

A. Yes. That's consistent with what has been described in previous exhibits, but yes, that's new to this exhibit.

Q. And then I think the Footnotes 2 and 3 just contain the same corrected numbers that are reflected in the chart and reflect your test of statistical significance on them, right?

A. Correct.

Q. Let's look at Exhibit 11 on your event study for the Series D. Do you have that?

A. Yes.

Q. So again, you made the correction to the heading on the two fixed event studies; right?

A. Yes.

Q. You changed the date and added the time for event 1; right?

A. The same changes that were on Exhibit 9, yes.

Q. The same exact changes, so again, for events 1 and 5, you have a new source and it's the same source as what we talked about for Exhibit 9?

A. Right, and for both Exhibit 9 and

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Exhibit 11, none of the changes change any of the numbers from the event study in those exhibits, but those updates were made, yes.

Q. Turn to Exhibit 12, please.

A. Okay.

Q. Exhibit 12 is your comparison of statistical significance and abnormal returns for Miller Energy Series D preferred stock material announcements versus days with no news during the analysis period; right?

A. Yes.

Q. And this contains ten items of data?

A. Yes.

Q. Your original Exhibit 12 had -- in your original Exhibit 12, four of the ten items of data were incorrect?

A. Yeah, and just to be clear, I mean, there's the ten items of data on the table. There's also the conclusions in the footnotes about the difference between, or the significance levels of the findings, which hasn't changed at all, but within the table itself, there are ten data items, yes, and four of them, as a result of correcting the errors I've identified, did change.

C. Coffman

Q. The number went from 120 to 118?
A. The number of no news dates, yes.
Q. And then the significant days at 95 confidence went from 6 to 4 for no news days; right?
A. Yes.
Q. And the percentage went from 5 to 3.39 percent?
A. Yes.
Q. The average absolute abnormal return went from 2.2 to 2.09 percent; right?
A. Correct.
Q. Please turn to Exhibit 17.
A. Okay.
Q. So it looks like this is summarizing some of your tests for autocorrelation during the analysis period; is that right?
A. Yes.
Q. And it looks like there are data items for 16 quarters here; right?
A. Correct, and the analysis period as a whole.
Q. You've changed at least some of the data for at least five of these items; right? I

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mean five of the 16 quarters.

A. I believe the numbers have changed slightly for five of the quarters, yes.

Q. Just explain why did these numbers change?

A. So you will notice that the first two quarters changed. That's as a result of changing the regression to remove the outlier date from -- that's identified in the other exhibits that we've already talked about. So that, just because of the 120-day rolling regression, that only affects the first two quarters of the analysis period, and then there are changes to a number in the middle of the table because the earnings date changed associated with event number 9, so that changed again. Because of that change, it changed which dates were being excluded from the regression.

Q. Just generally, what is this chart intended to show?

A. Well, Exhibit 17 is intended to reflect -- to summarize the test I performed to analyze whether stock price movements on a given day are predictive of stock price movements on the next day. And you would not expect to find a

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significant relationship there, or at least a consistent significant relationship there if the market were efficient.

Q. So can you explain just what these numbers -- you have a coefficient on previous days abnormal return for the analysis period of -.02 and a t-statistic of -.67. What does that mean?

A. So what that means is on average, if there's a 1 percent stock price movement today, that on average, we observed the next day, there's a negative 0.02 percentage stock price movement the following day, and the t-statistic of -.67 suggests that's not statistically significant, meaning that's close enough to zero that it can be explained by randomness alone.

Q. What would the cutoff be for the t-statistic?

A. In a large enough sample, it's 1.96 for 95 percent significance. Because of the size of the sample, it may be slightly higher than that.

Q. So then Exhibit 17-C looks like there are a couple of changes there. They would be for the same reasons?

A. Yes. The removal of the outlier

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pre-analysis period doesn't affect this one because the Series C begins trading on the NYSE later, but it is still affected by the one earnings date being changed.

MR. BALLARD: We're about to start a new topic so I want to take a short break.

THE VIDEO TECHNICIAN: We're going off the record. The time is 11:24 a.m.

(Recess taken.)

THE VIDEO TECHNICIAN: This begins Media Unit No. 3. The time is 11:37 a.m. We're back on the record.

Q. I'm going to hand you what we've marked as Exhibit No. 3. It's the Second Amended Complaint. Turn to page 73, paragraph 197. There's a heading that states, "The Truth Begins to Emerge." Do you see that?

A. Yes.

Q. I'm sure you recall at the first day of your deposition, I asked you some questions about plaintiffs' allegations about disclosures and events when, according to plaintiffs, the truth leaked out over time. Right?

A. Yes.

C. Coffman

Q. You remember that?

A. Yes.

Q. And you recall we looked at some instances where the plaintiffs allege a disclosure or an event impacted the price of Miller Energy securities over a two or three-day period?

A. Yes.

Q. So we looked at paragraph 199, paragraph 215. A couple of these paragraphs we looked at. Do you remember that?

A. I generally remember that, yes.

Q. And you testified that there could be instances in which an announcement of new news might be absorbed by the market over two days, with at least an initial reaction on the first trading day after the announcement, followed by another reaction on the second trading day after the announcement. Do you recall that?

MS. POSNER: Objection.

A. I don't know whether I used the word "another decline" or "another change" but that the full impact of the announcement wouldn't be reflected until the end of the second day or something to that effect.

C. Coffman

Q. And I think you said that you would expect at least an initial reaction on the first day of trading. Do you recall that?

A. Yes.

Q. We looked at some instances where plaintiffs alleged that there was a disclosure that leaked out the truth where your data showed there was no statistically significant movement on the following day, but there was a statistically significant price movement on the second day after the disclosure. Do you remember that?

MS. POSNER: Objection.

A. I don't remember which specific events that related to. I generally remember -- and when you say the following day, you mean the first trading day after which the news -- which the market would reflect the news; correct?

Q. So yeah --

A. I just don't want to get -- when you say the following day, I want to make sure we're not talking about starting from day two.

Q. Let's be clear. I believe we looked at instances where there was an alleged disclosure where the truth leaked out, and then the first

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market date after that, where there was trading, there was no statistically significant price movement, but on the market date plus 1 there was a movement.

MS. POSNER: Objection.

Q. Do you remember that?

A. Vaguely, yes. I don't remember which days we were talking about, but again, there can also be a difference between any movement and a significant movement, but yes, I generally recall that discussion.

Q. And you said "That's just not something I've studied here." Do you remember?

A. In terms of drawing any specific conclusions about any specific disclosures, that's correct.

Q. Since the first day of your deposition, have you studied that question?

A. No. I mean, the only additional things I've studied are reflected in the report.

Q. You haven't done any additional work to evaluate instances where plaintiffs allege that a disclosure impacted the market over two or three days?

C. Coffman

A. I have not done that, no.

Q. In your opinion, is it possible for an event to cause a significant price movement on the day after the event, the first market date, and then another movement on the next day, market date plus 1, in an efficient market?

MS. POSNER: Objection.

A. As I described in my previous deposition, that's plausible. And in certain cases I've seen where there's, you know, additional evidence to support that, not just that it always makes sense to look at two-day windows, but where there's evidence of continued reporting or additional analyst reporting or additional analysis, or additional volume, there could be supporting evidence to suggest that looking at more than a one-day window would be appropriate.

Q. So you could have an announcement of news in some form, and then you might see in an efficient market a price movement on the market date followed by another price movement on market date plus 1?

A. Yes.

Q. When I say market date plus 1, you know

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what I mean; right?

A. Yes.

Q. So market date, we're using the definition you used for your Exhibit 7. Right?

A. Yes.

Q. And market date plus 1 would just be the next day?

A. The next trading day, yes.

Q. I just want to make sure we're using the same terminology.

A. Yes.

Q. So in an efficient market, would it be possible for there to be an announcement of new news followed by a statistically significant price movement at the 90 percent confidence level on the market date, followed by a statistically significant price movement at the 95 percent confidence level on market date plus 1?

A. It's plausible. I'm not saying it happens frequently, but it's plausible.

Q. In your event study for the common stock as reflected on Exhibit 7, you found that there was a statistically significant price movement at the 95 percent confidence level for

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three of the 17 events you studied; right?

A. Yes.

Q. For the three events for which you found an earnings release was followed by a statistically significant price movement at the 95 percent confidence level, what, if anything, did you do to make sure that the price movement you observed was the market date response to the earnings release you were studying rather than a market date plus 1 carryover effect from a news event the day before?

A. Well, I reviewed the news around these earnings announcements, and I don't remember all the details, but I don't recall, on the day prior to any of those dates, there being what I would consider clearly new material news that would be expected to move the market, but without looking back at my backup, I don't know for sure, but I certainly would have looked at that.

Q. It is conceivable in your opinion, in an efficient market, for the three price reactions you observed at the 95 percent confidence level, it's conceivable that those were a reaction to something other than the earnings release; correct?

C. Coffman

A. When you define the earnings release, are you including everything in the earnings release and not just the earnings numbers, themselves? I just want to make sure I'm --

Q. Let me be clear.

A. Yeah.

Q. I'm saying, take an example, event 5. You used the date of July 16 and it was after hours, the earnings release, and so you looked at the market date of 7/17; right?

A. Yes.

Q. And you found a statistically significant price movement at the 95 percent confidence level on July 17th; right?

A. Yes.

Q. And you've drawn an inference that that was a cause and effect response to the earnings release; right?

A. Yes, that -- well, it is an earnings date. There is an earnings release. It doesn't exclude the possibility there could be other news on that day that is also contributing. But that's not --

Q. Well, it's possible that news came out

C. Coffman

the day before July 16th as well; right?

A. It's plausible. Like I said, I believe I looked at that as to whether there was any news that could plausibly explain that, but it's theoretically plausible.

Q. Was July 13, 2012, a news day?

A. Are you asking me about July 13th?

Q. Yes.

A. 2013?

Q. Correct. I believe that's a Friday, right?

A. I don't believe that's a trading day at all.

Q. Are you looking at your trade dates chart?

A. I am.

Q. I'm looking at item 768 on Exhibit 45.

A. Isn't that 2012? You were asking me about 2013, I believe, or maybe I misunderstood.

Q. Event 5 is 2012.

A. Oh, it is 2012. Okay, that's the mistake I was making.

Q. Let me ask a clean question. Was Friday, July 13, 2012, a news day? You know what?

C. Coffman

Let me back up.

First was Friday, July 13, 2012 a trading day?

A. Yes. Sorry. I was getting confused. I was looking at 2013. Yes, it is.

Q. July 13, 2012 was a trading day. Was it a news day?

A. According to my table, yes, it was.

Q. Do you know what news came out that day?

A. Sitting here right now, I don't recall.

Q. You're saying it's a news day because it appears on your Exhibit 47 which lists the days when news articles came out according to the databases you consulted; right?

A. I think you said Exhibit 47. That's not right.

Q. Exhibit 46, sorry.

A. Correct.

Q. And it would also be a news day if an SEC filing was made on that day; right?

A. Correct.

Q. We will look at that in a minute, but I believe your SEC list in Exhibit 48 does not list

C. Coffman

that date.

A. Correct.

Q. If there, in fact, was an SEC filing on that date, then it would also be a news day for that reason?

A. Yeah. I don't know that we look at all types of SEC filings. I think we certainly looked at 10-Ks, 10-Qs, 8-Ks, but there might be some other types of filings related to specific individuals that might not be counted in there, but it's -- if there would have been a 10-K or a 10-Q or an 8-K, yes, we would have treated that as a news day.

Q. Let's pause on that for a moment. I was under the impression that you included all SEC filings. Do I now understand you to say that you looked at all the SEC filings, and then you categorized them into as some that might be counted as news days and some that would not?

A. I'm just trying to recall. I believe there's a filter for types of SEC filings where we're attempting to pick up primary news disclosures by the company, so 10-Ks, 10-Qs, 8-Ks. There may be other types that are included.

C. Coffman

I'm not sure that every single type of SEC filing is picked up. That's something I just have to go back and review.

Q. And there's nothing in your materials or backup that I can look to to get the answer to that question?

A. I'm not certain about that. I would have to look. Certainly we've shown which dates have SEC filings according to our -- what data analysis we performed.

Q. What was the purpose of counting some SEC filings but not others?

A. Again, I'm just -- I'm not absolutely certain about that. I just -- I would have to go back and look at exactly what the search criteria was.

Q. Well, I'm certain you missed SEC filings, but I'm wondering why. So you can't shed any light on that today?

A. I would have to go back and review which filings are being excluded to answer why.

(Exhibit 50, printout from SEC Edgar system indicating Exhibit 51 was filed on July 13, 2012, marked for identification.)

C. Coffman

(Exhibit 51, letter dated July 13, 2012 from Miller Energy, marked for identification.)

Q. I'm going to hand you what we've marked as Exhibit 50 and Exhibit 51. So Exhibit 51 is a letter dated July 13, 2012 from Miller Energy; do you see that?

A. I see that.

Q. And it contains, among other things, supplemental oil and gas disclosure information; do you see that?

A. Could you point me to where you see that particular language?

Q. I'm just flipping through the document, looking at lots of words and numbers, and a heading "Supplemental Oil and Gas Disclosures Unaudited."

MS. POSNER: Page 3.

Q. Maybe it will help if I directed your attention --

A. I just want to review the document to make sure I understand what it is.

Q. Take your time. Just let me know when you're ready.

A. Okay.

C. Coffman

Q. So you've had a chance to review Exhibit 51?

A. Yeah. I haven't read every word of it but I generally have a sense of what it is now.

Q. It's a response from Miller to comments it received from the SEC; right?

A. Yes.

Q. And this letter is dated July 13, 2012. Right?

A. Yes.

Q. And if you look at Exhibit 50, you can see that it was filed on the SEC's Edgar system on July 13, 2012; right?

A. Yes.

Q. So this would make this a news day in your analysis; right? I recognize you picked it up as a news day because you had a news article on the same date, but I just mean would this SEC filing also make it a news day?

A. I would have to understand -- I mean, on the face of it, it's not clear to me why it wouldn't, but whether this could plausibly impact the stock price is another question because I would have to review whether and how much of this had

C. Coffman

been previously disclosed, but arguably you could treat a day as a news day as a result of this, yes.

Q. You're aware that plaintiffs have alleged that there were comment letters from the SEC that are very significant in this case; right?

A. That's my recollection, yes.

Q. And they have alleged that some of those comment letters were unknown to investors. Are you aware of that?

A. I don't recall that detail.

Q. Even though they were filed with the SEC on their Edgar system?

MS. POSNER: Objection.

A. I don't recall that detail.

Q. Those kinds of comment letters from the SEC and the company's responses certainly would be significant SEC filings that should be counted as news days; right?

A. Plausibly, yes.

Q. So, in any event, going back to Friday, July 13, 2012, that was a news day and you treated it as such in your analysis; right?

A. Yes.

Q. So July 16, 2012, was a Monday.

C. Coffman

A. I believe it was a Tuesday. Oh, no, you're right. The 16th would be a Monday, yes.

Q. And the 17th would be a Tuesday.

A. Correct, sorry.

Q. Was there a statistically significant movement in the price of Miller Energy's common stock on Monday, July 16?

A. Of 2012? I'm sorry.

Q. Yes, of 2012.

A. Yes.

Q. There was a statistically significant price movement at the 90 percent confidence level on July 16, 2012; right?

A. No, at the 95 percent level.

Q. Let me --

A. Oh, I'm sorry. Okay, I understand where the confusion is now. I thought you were asking about the market date of the 17th which we started this conversation with. Now I understand.

Q. Let's clear it up.

A. I understand the confusion.

Q. I'll ask a couple of questions and we will clear it up. So starting with July 17, the market date you looked at, there was a

C. Coffman

statistically significant price movement at the 95 percent confidence level on July 17?

A. Yes.

Q. Was there a statistically significant movement in the price on July 16, 2012?

A. At the 90 percent level, yes.

Q. So you observed a statistically significant price movement at the 90 percent level on July 16, 2012, followed by a statistically significant price movement at the 95 percent level on July 17, 2012; right?

A. Yes.

Q. Is it possible that the news item or items on July 13, 2012, could have caused the statistically significant price movements on July 16 and July 17, 2012?

A. The 16th, yes, for sure. The 17th, I can't absolutely rule it out. It's plausible that it contributed. It wouldn't -- it would be unlikely it was the only thing, given that there was other material news revealed, but it's plausible that it contributed.

Q. If that event drops out of your analysis, you would be down to 2 of 17 earnings

C. Coffman

releases that resulted in statistically significant price movements?

A. I don't know why you would do that, but if you just simply removed it, I guess that's true.

Q. Well, if you removed it because something else caused the price movement or because you can't rule out the possibility that something else caused the price movement, it would result in you concluding that 2 of 17 price movements can be attributed to earnings releases; correct?

A. Well, again, I mean, at the end of the day, it would still be showing that the stock price was moving significantly to firm-specific news. So I don't know why one would focus -- why it has to be just due to the earnings release, but mathematically, if you removed it, it would be 2 out of 17.

Q. And 2 out of 17 would not be statistically significant versus no news days; correct?

A. Well, again, if you're removing it entirely --

Q. To be clear, I'm not saying remove the event. I'm saying if you were unable to include

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that as an event for which there was a
statistically significant price reaction that you
can attribute to the earnings release.
A. That's what I'm confused about because
I don't know that, number one, it matters, or
number two, that even if you thought that was the
right thing to do, it would be to just remove it
from the numerator and not the denominator, but I
don't think either one is the right thing to do.
Q. Is it possible that all three of the
statistically significant price movements you
observed on the market date after earnings releases
could have been market-date-plus-1 reactions to
something that happened the day before the event
date?
A. Not if there was no news on all three
of those days.
Q. You're assuming the market was
efficient, though, right, for that answer?
A. No, because the predicate of your
question is, is it possible that news from the day
earlier affected a day later, and I'm saying if
there was no news on the day earlier, it wouldn't
make sense to believe that.

C. Coffman

Q. So earlier you said you had looked at news around the event dates in question to see if there's something else that might have caused the price movements; right?

A. Yes.

Q. In doing that work, did you look at and consider Exhibit 51?

A. I don't recall specifically having seen Exhibit 51.

Q. So in concluding that there was no other cause of the price movement that you attributed to event number 5, you didn't consider whether Exhibit 51 might have actually caused that movement; is that right?

A. I don't remember specifically considering that.

MR. BALLARD: We're going to take a short break. They're going to be bringing in lunch shortly if they haven't already done that.

THE VIDEO TECHNICIAN: We're going off the record. The time is 12:08 p.m.

(Luncheon recess: 12:08 p.m.)

C. Coffman

A F T E R N O O N   S E S S I O N

1:06 p.m.

C H A D   C O F F M A N, resumed the stand and testified further as follows:

THE VIDEO TECHNICIAN: The time is 1:06 p.m. We're back on the record. BY MR. BALLARD:

Q.   Can you turn to Exhibit 7 to your corrected report.

A.   Before we do that, can I go back to some of the questions you asked me before about SEC filings and which ones we downloaded and the timing of this particular SEC announcement?

Q.   Sure.

A.   After checking with my staff, I confirmed we actually don't exclude any specific types of SEC filings. The particular filing that you showed me is something that was considered and is on the list of SEC filings.

It's actually reflected, if you look at Exhibit 48, as having become public on August 17th, 2012, so it's one of the items on the SEC list that's one of the items 32 through 40 that I understand were made public on August 17th.

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In fact, if you go -- you had showed me Exhibit 50, which is the exhibit that shows the filing date and the accepted date. The accepted date, my understanding is, reflects when the SEC accepted it, but that's not reflective of when it was necessarily made public and given to the Edgar system.

If you click on the complete submission file which is the -- there's a sequence number 1 and 2, and then there's a complete submission file which is a text file there. At the top of that text file, it reflects what I understand to be the date it was received by Edgar, which is the site that makes these filings public, and the date reflected there is August 17th.

I also, when downloading the SEC site list, I download that through Investext and that also shows what is -- reflects a quote-unquote receipt date, which the documentation suggests is when Edgar received the file as August 17th, 2012 as well. So I don't believe sort of the predicate to all your questions before about this document as being made public on July 13th, 2012, are correct.

Q. So looking at Exhibit 50, your

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understanding is that that filing date is not the date that it became public?

A. That's my understanding, correct. That was the date that the issuer filed it with the SEC and it was accepted by the SEC, but that's not necessarily the date it became public.

Q. How do you know for sure when it became public?

A. My understanding is the best way -- I mean, there's multiple ways that I've looked at that, but if you click on the complete submission text file, there's a date reflected at the top of that document that my understanding is that's when it was received by Edgar, which is the service that makes these documents public.

Q. Where did you get that understanding?

A. By pulling up this document and clicking through to this complete submission file and then also talking with my staff to understand how we had put this document on August 17th.

Q. So when your staff compiled the SEC filing data, they didn't go and click through all these complete submission text files; did they?

A. No. Through the Investext service, you

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can create a spreadsheet or a list that reflects not just the filing date and the accepted date, but also the receipt date by Edgar. At least that's how we're interpreting it and that's what we believe it to be. And that shows August 17, and as a check, while I was on a break, I went to this particular filing and clicked through to the complete submission text file and it also showed that date.

Q. Thank you. Let's turn to your Exhibit 7 to your corrected report. So in conducting your event study for the common stock, you checked to see if there was a statistically significant price movement on the first trading day after each earnings release, which you called the market date. Right?

A. Yes.

Q. And you were attempting to study whether the market reacted rapidly to earnings releases; correct?

A. That's the methodology, yes.

Q. You didn't check to see if there was a price movement on market date plus 1; right?

A. No.

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Q. And you didn't check to see if there was a price movement on market date plus 2; right?

A. That was not part of the test, no.

Q. So you were basically checking to see if there was a rapid reaction to earnings releases, not whether there was a slow reaction to earnings releases?

MS. POSNER: Objection.

Q. Is that fair?

A. Yes.

Q. To put it in scientific terms, if you were going to say you had a hypothesis, you could say your hypothesis was that the market for Miller Energy's common stock is efficient and you're testing for that; right?

A. No. The hypothesis is that there's no difference -- so the null hypothesis that I'm attempting to reject is that there's no difference between earnings announcement dates and no news dates. And then I run a test which shows I can reject that null hypothesis, and from that, I conclude that there is evidence of a cause and effect relationship between news on earnings announcement dates and movements in the security.

C. Coffman

Q. You're saying if there is an efficient market, you would expect a cause and effect relationship between earnings releases and price movements; correct?

MS. POSNER: Objection.

A. Can I have that read back, please.

(Record read.)

A. Not necessarily in every single circumstances. Again, what Cammer 5 is calling for is evidence of a cause and effect between company-specific news and the movements in the prices.

I've designed a test where the null hypothesis is that there's actually no difference between the no news dates and the particular dates I'm identifying as having news or this type of news. One could imagine a scenario where even though the market is perfectly efficient, that there's not sufficient surprising information on earnings dates that it would just be a circumstance of the facts that you actually didn't observe any statistically significant stock price movements on the earnings dates.

So I don't think what you said is quite

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right. You don't always expect there to be price movements on earnings dates in an efficient market every time, but if you do observe it, that certainly allows you to reject the null hypothesis.

Q. So you are essentially checking to see if there's a rapid reaction to earnings releases?

A. Relative to the no news days, correct.

Q. And you found that 3 of the 17 earnings releases had statistically significant reactions upon the market date?

MS. POSNER: Objection.

A. At the 95 percent level. There's more at the 90 percent, but at the 95 percent level, yes, 3 out of 17.

Q. For event 9, was there a statistically significant price movement at the 95 percent confidence level on market date plus 1?

A. I believe there was, yes.

Q. For event 13, was there a statistically significant price movement at the 95 percent confidence level on market date plus 1?

A. Yes.

Q. For event number 17, was there a statistically significant price movement at the 95

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percent confidence level on market date plus 1?

MS. POSNER: Was that number 17?

MR. BALLARD: Yes.

A. Yes.

Q. There were at least three instances out of 17 in which the price of Miller Energy's common stock moved in a statistically significant way at the 95 percent confidence level on market date plus 1, with a second day after the earnings release; correct?

A. Yes.

Q. Three out of 17 would be 17.65 percent?

A. Yes, but I think you're assuming in your question somehow that there's no additional news that might explain that and, in fact, I think the company had a practice from time to time of holding earnings calls a day after their announcements so their earnings calls may have also been contributing to that, but what you state is correct.

Q. In fairness, in your analysis, you were assuming for each of the market dates there was no other confounding news item that came out on those dates as well; correct?

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MS. POSNER: Objection.

A. I wasn't assuming that. I'm assuming that whatever the -- that the stock price was reacting to whatever the total mix of news was on those dates.

Q. In each instance, you looked at an entire trading day and looked at the market price at the end of that day; right?

A. That's correct, yes.

Q. So other news could have come out that could have been the cause of the price movements you observed rather than the earnings release; right?

A. Other news plausibly could have contributed. Again, to the extent that's occurring, that's just adding further evidence that that day was showing a cause and effect relationship, but yes, it's possible things other than the earnings news were contributing.

Q. So your data shows that 3 out of 17 earnings releases were followed by statistically significant price movements on the market date, but also shows that 3 out of 17 earnings releases were followed by statistically significant price

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movements on the market date plus 1; right?

A. At least. I don't know that I've looked at all of them. You've shown me three. I don't know if there's more.

Q. Earnings releases were just as likely to be followed by a statistically significant price movement on the second day of trading as they were the first; right?

MS. POSNER: Objection.

A. Again, I think your question is ignoring the possibility that there's additional news being released around those times, but as a factual matter, it's showing that, yes.

Q. The price of Miller Energy's common stock was as likely to take an extra day to react as it was to react on the first market date; correct?

MS. POSNER: Objection.

A. No.

Q. What is your basis for saying that, if any?

A. That there's -- I'm not aware of evidence suggesting that on those days, it was taking an extra day for it to react. It may have

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been reacting to other information, so I just haven't drawn that conclusion.

Q. So it's possible that those three occasions where there was a market reaction two days after the announcement were, in fact, reactions to those earnings releases; correct?

MS. POSNER: Objection.

A. I guess I haven't done anything to completely rule that out, but I'm certainly not drawing that conclusion.

Q. If that's true, that would be strong evidence of an inefficient market; correct?

A. I don't necessarily believe so, no.

Q. You were testing for whether the market was efficient. You were not testing for whether it was inefficient; correct?

A. Again, I think I've laid out exactly what my test is. I'm testing a null hypothesis that the earnings announcements had no effect and I'm able to reject that scientifically.

Q. If you can test for whether the market reacted rapidly, can't you test for whether it reacted slowly?

A. Well, if it was consistently reacting

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slowly in some systematic way, I would have expected to see some evidence of that in the autocorrelation test, but I don't see that. I mean what you're saying is technically plausible, I guess, but I don't believe there's actually any evidence to support that, certainly not in my report.

Q. For event number 12, was there a statistically significant price movement at the 95 percent confidence level on market date plus 2?

A. So it would be March 17th, the Monday. Yes, there was a significant return. And just to be clear, throughout this questioning, we're talking about the common stock.

Q. Yes, for the common stock.

For event number 17, was there a statistically significant price movement in the common stock at the 95 percent confidence level on market date plus 2?

A. So that would be July 31st. The answer is yes. I happen to know that's the day they were delisted from the exchange so there certainly was other news that helps explain that.

Q. Of the 17 events at issue, in at least

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five instances, the price of the common stock moved in a statistically significant way at the 95 percent confidence level on the second or third day after the event in question; correct?

A. You're factually correct that it moves. Attributing that to the earnings announcement or somehow inferring from that that the price moved slowly, I don't think would be the conclusion you could draw from that.

Q. You've devised a test that will allow you to conclude that there was a cause and effect relationship, but your test does not allow you to ever conclude that there was a slow reaction to the earnings releases; correct?

A. Well, the test -- again, I think it's important to look at a couple of different things. I've devised a test that allows me to test the null hypothesis that earnings announcement dates don't look any different than the no news dates, and rejected that null.

I've not performed a specific test of whether there are delayed reactions beyond day 2 -- I'm sorry, beyond day 1, but I do have a test of autocorrelation that suggests there's no consistent

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ability to predict the stock price movement on day T+1 from day T, so I think there is evidence in my report that suggests that the market -- that it did generally react rapidly.

Q. Can you explain, if the market was efficient, why the stock price was much more likely to move on the second or third day after an earnings release than it was on the day after an earnings release?

MS. POSNER: Objection.

A. Yeah, because it may not have been the earnings release that was moving the stock up on those days.

Q. You're saying there might have been some other news out there that could have caused the price movement on market date plus 1 and plus 2?

A. Yes. In fact, I just gave you an answer to that. On July 31st, I know for a fact there was other news that caused the stock price to decline with an abnormal return over 50 percent, so I know there was other news on that day.

Q. That criticism is applicable to your entire approach, because you didn't check to see

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whether there was conflicting or additional information on any of the market dates; correct?

MS. POSNER: Objection.

A. No, because now I'm looking within a day and that's my methodology. You're now saying that you could somehow draw some conclusion about how slowly the market is reacting just by observing the rate at which there were significant results over the two and three-day windows without considering whether there was other news that was interfering.

Q. So you're assuming there must have been new information on market date 1 or market date 2, but you're assuming there wasn't any new information on the market date beyond the earnings release?

MS. POSNER: Objection.

A. No, I'm not assuming any of those things.

Q. Is it your opinion that the markets for Miller Energy securities were efficient through the entirety of the proposed class period?

A. So I guess the reason I'm hesitating there is I know originally there was a proposed

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class period that extended beyond July 31st of 2015, and so I just want to be clear about what time period you're asking me about.

Q. So just to be clear, when I refer to the proposed class period, I'm referring to the proposed class period contained in the motion to certify classes, not what is in the complaint.

A. Okay. I don't know that I've actually ever reviewed that document, so if you're asking for the analysis period, which is what I was asked to give an opinion on, the answer is yes.

Q. If the market for Miller Energy securities was efficient throughout the analysis period, then publicly disclosed information contained in SEC filings related to Miller Energy should have been rapidly incorporated into the price of Miller Energy's securities; right?

MS. POSNER: Can you read that back.

(Record read.)

MS. POSNER: Objection to form.

A. Yes.

Q. On your Exhibit 7, for example, looking at event number 5 for the year-end results reported in the company's Form 10-K, your opinion is that

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the market for Miller Energy securities was efficient and that the information made public through that filing was rapidly incorporated into the price of the company's securities?

A. Yes.

MS. POSNER: Objection to form.

A. Yes.

Q. And is it your opinion that for each of the 10-Ks and 10-Qs, the information that was publicly disclosed would have been rapidly incorporated into the price of the company's securities because the market was efficient?

A. Yes.

Q. Does that apply to the exhibits to the Form 10-K as well?

A. Generally speaking, yes. I guess there could be a circumstance in which -- and I think I may have testified about this at our first session, that if there was some important value-relevant detail buried deep in a filing and it wasn't noticed until -- and then it was reported on shortly after that by analysts and things like that, you could imagine there being some short delay, but generally speaking, I would think that

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anything that's attached to the 10-K filing would be reflected rapidly.

Q. I'm going to hand you Exhibit 28.

A. Just to be clear, as long as those exhibits were public at the time, as part of the public filing.

Q. In Exhibit 28, can you turn to page F30 toward the end. There's a heading, "Supplemental Oil and Gas Disclosures Unaudited." Do you see that?

A. I see that heading, yes.

Q. Following that heading, there's some texts and charts and data.

A. Yes.

Q. If the markets were efficient, this information would have been incorporated in Miller Energy's securities prices rapidly?

A. Sitting here right now, I have no reason to believe that to be untrue. I agree, I would expect that.

Q. If you look at page F35 -- actually, F34, sorry.

A. Okay.

Q. On F34, the last paragraph starts, "The

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following schedule." Do you see that?

A.   Yes.

Q.   And there's a sentence that says, "All estimates were prepared by third-party reserve and engineering firms."

Do you see that?

A.   I see that.

Q.   And then if you look on the next page, there's a paragraph, "Each of the engineering reports also projected..." Do you see that?

A.   I see the paragraph that starts that, yes.

Q.   There's a reference to their calculation of present value discounted at 10 percent per annum. Do you see that?

A.   Let me review it. I see that.

Q.   Are you familiar with the engineering firms that are referred to here?

A.   Not specifically, no.

MR. BALLARD: I need to go off the record.

THE VIDEO TECHNICIAN: We're going off the record. The time is 1:33 p.m.

(Recess taken.)

C. Coffman

THE VIDEO TECHNICIAN: The time is 1:58 p.m. We're back on the record.

MR. BALLARD: Mr. Coffman, we've handed you Exhibit 52.

(Exhibit 52, Edgar detail related to the Form 10-K for the year 2012 for Miller Energy, marked for identification.)

MR. BALLARD: I'm going to hand you two more exhibits. Number 53.

(Exhibit 53, May 29, 2012 reserve report, marked for identification.)

MR. BALLARD: And 54.

(Exhibit 54, reserve report, marked for identification.)

Q. Do you recognize Exhibit 52 as the Edgar detail related to the Form 10-K for the year 2012 for Miller Energy?

A. Yes.

Q. And you see that there were a number of exhibits that were filed along with the annual report on Form 10-K?

A. That appears to be the case, yes.

Q. Among those exhibits were a number of reserve reports; do you see that?

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A. It appears to be, yes.

Q. And can you take a look at Exhibits 53 and 54. Do you see that those are two of those reserve reports?

A. That's what it appears to be, yes.

Q. So looking at Exhibit 53, what is the date of the letter that you have in front of you there?

A. The date of the letter appears to be May 29, 2012.

Q. This is a letter signed by a Lloyd Branum of Ralph E. Davis Associates, Inc.

A. I'm sorry, you said Lloyd? I see LB. Do you see Lloyd somewhere?

MS. POSNER: Page 7 of 17.

A. Yes, I see that.

Q. And he's identified as a licensed professional engineer, do you see that, in paragraph 2?

A. I see that's the representation, yes.

Q. Turning to the front of this document, Exhibit 53, do you see that he has indicated that Miller has asked his firm, Ralph E. Davis, to prepare a statement of oil and gas reserves in

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Alaska?

A. I see it says, "On specific leaseholds in which Cook Inlet Energy has interest for CIE and Miller." I don't know if that's referenced to all the Alaska Assets, but I see he's prepared an estimate of the reserves for whatever he's looking at.

Q. And in this instance, he's prepared an estimate of the proved, probable and possible reserves; do you see that in the third line?

A. I see the words "probable" and "possible" there, yes.

Q. And "proved" as well; right?

A. Yes.

Q. If the markets were efficient, the markets would have absorbed this information and incorporated it into the price of Miller Energy securities; isn't that true?

A. Generally speaking, yes, to the extent there's -- someone could read between the lines here and some analyst or other person could put this in more context and provide additional information. That's theoretically possible, but certainly given that it was public and filed with a

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10-K, it was available to the market and would be priced in, yes.

Q. If you look at page 2 of Exhibit 53, in the second paragraph, do you see that Ralph E. Davis has estimated the future net income and discounted present value associated with the reserves as of April 30, 2011?

A. I see that, yes.

Q. And do you see that at the end of that paragraph, he's indicated that "The present value is presented for your information and should not be construed as an estimate of the fair market value"? Do you see that?

A. I see that, yes.

Q. That was also made public as well and should have been incorporated into the market price of Miller Energy securities if the market was efficient; right?

A. Yes.

Q. Do you see that in this instance, Ralph E. Davis estimated that the company had, for the proved reserves, estimated future net income in excess of $452 million?

A. Can you point me again to where you're

C. Coffman

seeing that?

Q. If you look at the first chart on page 2 there's a heading, "Proved."

A. I see that. I didn't see the proved heading. Yes, I see that.

Q. Under "Income Data" there's a capital M and a dollar sign. Do you see that?

A. I see that.

Q. So that would indicate these numbers are in thousands?

A. That's generally the notation for that, yes.

Q. And if you look down at future net income, FNI, do you see that line?

A. Yes.

Q. So Ralph E. Davis was estimating over $452 million of future net income for the proved reserves as of April 30, 2011; right?

A. That's what it seems to indicate. I mean, that's not a present value, but that's the future net income according to them, yes.

Q. And using a discount rate of 10 percent, this firm calculated the present value of that as in excess of $301 million; right?

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A. That's what it seems to indicate they're calculating.

Q. If you turn to the next page, do you see there's a heading for, "Probable"?

A. Yes.

Q. And Ralph E. Davis was estimating at this time that Miller Energy would have in excess of $412 million of future net income on its probable reserves? Do you see that?

A. That seems to be what this is indicating, yes.

Q. And their present value of that, at a 10 percent discount rate, was in excess of $232 million; is that right?

A. That's what this seems to indicate their view was, this particular engineer's view was or this firm's view was.

Q. Do you see the next heading for, "Possible"?

A. Yes.

Q. It looks as though Ralph E. Davis' firm was estimating that there would be future net income in excess of $1.1 billion on the possible reserves according to this; right?

C. Coffman

A. That's what it seems to indicate.

Q. Their present value for that was in excess of $663 million using a 10 percent discount rate?

A. That's what it seems to indicate.

Q. If you turn to page 5, at the top in the first line, do you see that this firm was using an average crude oil price of $85.55 per barrel?

A. I see that statement.

Q. So if the markets were efficient, the price of Miller Energy's common stock would have rapidly absorbed all this information; right?

A. Yes.

Q. If you turn to Exhibit 54 --

MS. POSNER: Before you go on, are you going to tie this to the corrections in his report? Because you don't just get another seven hours.

MR. BALLARD: I'm not going to comment. You can give a direction if you want to.

MS. POSNER: I'm going to tell him to stop answering questions unless you can tell me you're relating this in some way to his corrected report and the corrections to it.

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MR. BALLARD: You can give whatever instructions you want to give.

MS. POSNER: You're not going to tell me one way or the other?

MR. BALLARD: I'm going to ask questions today. I'm not going to explain.

MS. POSNER: If you have no further questions on his corrections to his report, we can stop the deposition.

MR. BALLARD: No, I'm not stopping the deposition.

MS. POSNER: We can leave. That's fine.

MR. BALLARD: If you leave, the consequences will be on you. I have questions to ask and I'm going to continue asking.

MS. POSNER: We can call the Court.

MR. BALLARD: Do you have a direction to your witness?

MS. POSNER: I'm going to stop the deposition. I don't need to instruct him. We can leave. I'm trying to get some clarity from you if you're asking questions about the

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corrected report. You know that you're limited to seven hours for the deposition. We agreed to take him back to answer questions with regard to his corrected report.

You're now well beyond that with regard to your questions, so I'm asking you if you're going to get to questions pertaining to his corrected report. If so, I'm happy to let you continue.

MR. BALLARD: My position is all of my questions relate to his corrected report. If you disagree, you can disagree. If you want to give him an instruction, give him an instruction, but otherwise, I have a question I'd like to ask this witness.

MS. POSNER: That is not being responsive. You're taking the position that anything about efficiency relates to the corrections to his report? Is that your position?

MR. BALLARD: I didn't say that.

MS. POSNER: I'm asking you for clarity so we have a record here.

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MR. BALLARD: I think we've made a record. I have a question pending. I'd like an answer.

MS. POSNER: No. I'd like some clarity from you about what you think the scope that you can cover today is. If you think it goes beyond the corrections to his report, please put that on the record so that I know your position and we can decide how we want to proceed here.

MR. BALLARD: The deposition today is on his corrected report and that's what I'm asking questions about.

MS. POSNER: You've just asked questions that have nothing to do with his corrected report.

MR. BALLARD: We agree to disagree on that.

MS. POSNER: What do you think you just asked questions about that went to the corrections in his report?

MR. BALLARD: I'm not going to argue anymore with you. You can answer the question, or if your counsel wants to

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instruct you, she can instruct you.

Can we have the question read back.

MS. POSNER: If you're not going to be able to provide any further information regarding whether you have any further questions about the corrections to his report, then we can just stop. That's all I'm asking you.

MR. BALLARD: I'm asking questions. I have one pending. I want an answer. Please answer.

MS. POSNER: You can answer the pending question if you want and we can leave after that.

THE WITNESS: I don't recall the pending question.

(Record read.)

MS. POSNER: If you have no further questions about the corrections to his report, I'm going to do my redirect and we're going to be done with the deposition. If you have further questions about the corrections to his report, I'm happy to let you ask them.

Q. Turning to Exhibit 54, would all of the

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information in it have been rapidly incorporated into the price of Miller Energy's securities if the market was efficient?

A. To the extent it was attached to the 10-K as it seems to be indicated here, I would say yes.

Q. You can set that aside. I want to direct your attention to the Second Amended Complaint again. It's Exhibit No. 3.

A. Okay.

Q. I'll direct your attention to paragraph 225.

A. Okay.

Q. In this paragraph, plaintiffs allege "On May 12, 2015, the company disclosed that the New York Stock Exchange had notified it that its shares were subject to de-listing due to its having failed to maintain listing requirements.

Do you see that?

A. I do.

Q. Are you aware of how this information became public on May 12, 2015?

A. I don't have a specific recollection as I sit here. Give me just a moment.

C. Coffman

I don't.

Q. Would it surprise you if you heard that a Form 8-K witness disclosure was filed on the morning of May 12, 2015?

A. I don't know that it would surprise me. Like I said, as I sit here, I'm generally not aware of that, of the specifics of how that became public.

(Exhibit 55, Form 8-K dated May 12, 2015, marked for identification.)

Q. I've handed you Exhibit No. 55. Exhibit 55 is a Form 8-K dated May 12, 2015; right?

MS. POSNER: What date did you say? It's May 6, 2015, as of the cover of this document.

Q. If you look at the last page of the document, do you see that there's a signature from Carl Isler, Jr.?

A. I see that.

Q. And it's dated May 12, 2015, at least on the signature page; right?

A. I see that.

Q. And then on the front, there's a date of report, date of earliest event reported, of May

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6, 2015; do you see that?

A. Where specifically are you pointing me to there? Oh, at the top, on the cover sheet? Okay, I see that.

Q. Is it your understanding that this document was filed on May 12, 2015?

A. That's what it appears to suggest.

Q. In this document, Miller Energy has indicated that on May 6, 2015, the company received a notice from the New York Stock Exchange that it was not in compliance with listing standards; do you see that?

A. Yes.

Q. And Miller Energy disclosed that such non-compliance was based on the company's failure to maintain an average market capitalization and shareholder's equity greater than $50 million over a 30 trading day period. Do you see that?

A. Yes.

Q. It also indicated that the company had 45 days to submit a plan to regain compliance or be delisted; right?

A. Yeah. I mean it had 18 months to regain compliance, but it had to submit a plan

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within 45 days. That's my understanding of how to read this.

Q. So basically Miller Energy got the notice from the New York Stock Exchange on May 6th and they filed or publicly disclosed it by May 12, 2015. Is that how you understand it?

A. Yeah. I would want to review to see if there's any other indication that it was disclosed earlier, but that's what this document appears to be suggesting, yes.

Q. And it's what the complaint alleges in paragraph 225?

A. That's what it appears to allege, yes.

Q. So looking at Exhibit 44, which is the regression analysis for the common stock for your corrected report, can you tell us if there was a statistically significant price reaction on May 12 or May 13 or May 14 of 2015?

A. There was not.

Q. If you would look at the Second Amended Complaint at paragraph 227, there's an allegation that "On July 30, 2015, after market close, Miller Energy disclosed that its common and preferred stock would be de-listed from the New York Stock

C. Coffman

Exchange," and then there's an allegation that this leaked out the truth, and the stock price fell.

Do you see that?

A. Yes.

Q. And your regression analysis for the common stock showed that the price in fact declined in a statistically significant way on July 30, 2015; is that right?

A. It does, although paragraph 227 seems to indicate that the news was after the market close, which means the market date would have been July 31st.

Q. And your regression analysis shows a statistically significant decline on that date as well; right?

A. Yes.

Q. If the market was efficient, given that the risk of delisting was disclosed on May 12, shouldn't there have been a price reaction after the May 12 disclosure?

A. No, not necessarily.

Q. If the market was efficient, given that the risk of delisting was disclosed on May 12, shouldn't the price not have reacted after the July

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30 disclosure?

A. No, not at all. There are two very different sets of information being disclosed. On May 12, they're being notified -- they're telling the market they have been notified that they don't meet the market capitalization qualifications and they need a plan to rectify that.

The market was well aware through public information what their market cap was so it probably wouldn't have been a shock to the market that they were getting such a notice.

And on July 30th, the fact that they didn't come up with a plan to rectify it and the exchange actually went through with the delisting is very different than just saying the company had to submit a plan. So I see those as two very different events.

Q. The market knew through that entire period that the average market capitalization didn't bounce back; right?

A. Correct, but -- correct.

Q. So the market knew that the listing requirements continued to not be met through this entire period; right?

C. Coffman

A. That's probably true, yes.

Q. I want to turn back to Exhibit 44, your regression analysis for the common stock for your corrected report.

If you look at the top, there are a bunch of column headings.

A. Yes.

Q. And I don't know, a third of the way across the page, there's one "REP" and then "CL." Do you see that?

A. Yes.

Q. What is that?

A. I believe that is the return of the oil futures index that I'm controlling for or the oil futures price that I'm controlling for on each day.

Q. And how did you compute the return on oil futures in this analysis?

A. It's the percentage change in the price of the index. Hold on, let me just take a step back. So it's relying on -- I'm sorry, Footnote 62 of my corrected report makes reference to the NYMEX WTI light sweet crude oil index futures index so it's NYMEX CL so I'm looking at the percentage change in value of that index.

C. Coffman

Q. So let's just take a specific day. Can you look at November 15 of 2011.

A. Okay.

Q. And you have a figure in there, it looks like .0131445. Do you see that?

A. Yes.

Q. How mathematically did you calculate that number by way of example?

A. It's the percentage change in the price of the index that is referenced in my report from the prior day. The closing -- the closing price.

So if -- I mean, formulaically, it's the price at the close on that day, divided by the price of the close on the prior day, minus 1.

Q. Closing price on November 15, 2012, divided by closing price on the prior day, which would have been November 14 --

A. Yes.

Q. -- '12, minus 1?

A. Yes.

Q. And that would get you the --

A. Percentage change or the return.

MS. POSNER: We're on 2011 though, right?

C. Coffman

MR. BALLARD: You're right, 2011. I think I misspoke. 2011.

Q. Is that the method you used to compute all of the numbers in this column?

A. Yes.

Q. What happens when a futures contract matures?

MS. POSNER: Objection.

A. My understanding is this is an index of how generally futures prices are changing, so it's not necessarily reflective of the maturity of a specific contract.

Q. So you pulled data from this source that gave you the prices for oil futures for each date?

A. Well, my understanding is it's an index of, or it's meant to be a reflection of how oil futures prices are changing on a day-to-day basis. And I know there's a methodology for how they choose which futures they're looking at, but it's meant to reflect a relative change in oil prices.

Q. Did you use the price for the future with the nearest maturity date?

A. It's been sometime since I've looked at

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the details of how this index is computed, but I believe that's the general methodology, but I think it converts over to the next nearest to maturity at some point before maturity. So I just don't recall all the specific details about that.

(Exhibit 56, printout of backup data to Chad Coffman's expert report production numbers MILLER ENERGY-KPMG-CC 015923, marked for identification.)

Q.   I'm going to hand you Exhibit No. 56. Exhibit 56 is a printout of some of the backup data that you provided to us. It had production numbers MILLER ENERGY-KPMG-CC 015923.

A.   Can you give me just one second.

Q.   Sure, take your time.

A.   Okay.

Q.   Are you ready?

A.   Yes.

Q.   So do you recognize the data in Exhibit 56?

A.   Not specifically. I mean, I would have to have some additional context to -- all that is shown is a date and a price, so I'm not certain.

Q.   Maybe I can help you with that. I

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mean, it looks to be the oil index prices that you used for your analysis; right?

A. I don't know the answer to that without looking at something else.

Q. Let's look at the date 11/15/2011 that we looked at before and test that formula you gave us.

A. Okay.

Q. So if we would take 11/15/11, there's a price of $99.43; right?

A. Yes.

Q. 99.43 and you would divide that by 98.14, which is the price for 11/14/2011; right?

A. Yes.

Q. Subtract 1, right, subtract 1?

A. Yes.

Q. My calculator says .01314449.

A. Right, which would correspond to what is listed in the column on Exhibit 44.

Q. So can you now confirm that Exhibit 56 is the oil price data you used to calculate that column on your Exhibit 44?

MS. POSNER: Objection.

A. Based on that calculation, that seems

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likely, yes.

Q. And when you downloaded the data on oil prices on the index or futures, did you just download the data or did you compute something?

MS. POSNER: Objection.

A. I believe it was just downloaded as is, because I'm reporting that these data actually come from a specific ticker symbol.

Q. Where is the ticker symbol?

A. In Footnote 62, in parens there, I have (NYMEX:CL) so that is probably why it was called REP_CL.

Q. I see. In the second line?

A. Yes.

(Exhibit 57, data downloaded from Bloomberg, marked for identification.)

Q. I've handed you Exhibit No. 57 which is data downloaded from Bloomberg. Do you see there's a listing there for CL 1 and CL 2?

A. There appears to be, yes.

Q. Do you know what those refer to?

A. Not specifically as I sit here, no. I would have to investigate that.

Q. Did you understand that there were

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futures contracts available with different maturity dates?

A. That's my general understanding of futures contracts, yes.

Q. So there might at any point in time be a contract with a maturity date of X and another contract available at the same time with a later maturity date?

MS. POSNER: Objection.

A. I understand that there can be different futures contracts, yes.

Q. In performing your calculations here for the oil futures returns column in your Exhibit 44 of your corrected report, was it just a mechanical calculation every time where you just went through that math that you walked through where you divide the price on one day by the prior day price and then subtract one?

A. I believe so, yes.

Q. Were you always comparing the same contracts with the same maturity date in that calculation?

A. I know that series is put together somehow in terms of looking at the contracts on a

C. Coffman

rolling basis. Just without seeing the description of exactly how that's done, I just don't recall as I sit here.

Q. Let's look at that November 15, 2011 date again, and we already looked at Exhibit 56 where we determined how you got to that number.

A. Yes.

Q. So the $99.43 divided by the $98.14; right?

A. Yes.

Q. So look at 11/15/2011 on Exhibit 57.

A. Okay.

Q. For purposes of calculating the return, the oil futures return for November 15, 2011, you used the $99.43 figure from the CL 2 futures contract; right?

A. I mean, those numbers are the same. I don't know that that's precisely how that was done.

Q. You didn't divide that number into the 98.22 from the same contract from the day before; did you?

MS. POSNER: Objection.

A. That's not the calculation that was done. Again, I'm not -- it's not clear to me

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exactly if these are the contracts where those prices were coming from without investigating it more carefully, but --

Q. Do you see the 98.14 for the CL 1 futures contract for November 14, 2011?

A. I see that number there, yes.

Q. So it looks like you took the -- for your calculation for November 15, 2011, you took the price of 99.43 from one futures contract with a certain maturity and you divided that by the price from the prior day for a different futures contract with a different maturity date and that's how you performed the calculation.

MS. POSNER: Objection.

Q. Is that right?

A. Again, this index may have been created using a rolling method of looking at different contracts. That may be how it was done. I would have to investigate further. I just don't know.

Q. To do it properly, you should be using the same contract in the formula; right?

A. I don't know that that's the only way you could do it.

Q. Well, in some instances, did you use,

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for your formula, the contract price for one contract divided by the contract price from the day before for that same contract?

A. Again, just sitting here right now, I don't recall all the details of how the price series that I rely on was put together. I understand that it reflects the prices of near-term futures contracts, but precisely how it was put together, I just don't recall, so I would be speculating to answer that question.

Q. So looking at the figure you gave in your Exhibit 44 for your corrected report for the oil futures returns for November 15, 2011, you had this figure .0131445. Is that correct?

A. It reflect the differences in price you showed me on Exhibit 56, yes.

Q. Well, if you took the price of 99.43 and divided it by the prior day price of the same futures contract, you would get a different number; wouldn't you?

A. I don't -- you know, you're representing what these series represent. I'm not absolutely sure what they are, so I'm just not certain and I'm not going to speculate about it.

C. Coffman

Q. If Exhibit 57 accurately reflects the data for two different sets of futures contracts with different maturities -- assume that -- if that's the case, looking at the date of November 15, 2011, the figure you have in your oil futures returns of .0131445 is not correct; right?

MS. POSNER: Objection.

A. When you say not correct, I mean, if what you're saying is correct, and these are the sources for this price series, it's not necessarily incorrect. It's just rolling over from one contract to the next and that's what this index is intended to reflect.

Q. So how did you go about deciding which contract prices to use for this calculation?

A. I believe -- I would have to double-check the details, but I think this is just a series that you can download on its own. I don't believe there were any specific decisions or calculations made about which contract to pull from.

Q. I mean, you see from the data on 57, if you're starting with a price of 99.43, you could have divided that by 98.22 or you could divide it

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by 98.14 to do your calculation; right?

MS. POSNER: Objection.

A. I mean, plausibly you could have done it either way, yes.

Q. In fact, you or your team chose to do it by dividing 99.43 for the one contract and by 98.14 for the other contract; right?

A. If what you're representing to me is that these are the underlying prices that lead into this price series, that appears to be correct.

Q. Do you have any explanation for why you would use that methodology?

MS. POSNER: Objection.

A. Again, without reviewing, I don't -- I would have to review to understand completely the methodology used for this index. I think it's still reflecting an overall change in prices. The fact that you might be comparing across contracts, I think you can do it either way.

Q. That contract that has the 99.43 price for 11/15/2011 also had a price for the prior day; right?

A. It did, yes.

Q. So --

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A. If this is what you're representing to me it is, yes.

Q. Wouldn't that be the better calculation, to use the same security price?

A. That's another way one could do it. I would have to think carefully about what all the implications of that are, but it's plausible. I don't want to say it's the wrong way to do it, but I think you could do it either way.

Q. You could get different numbers and different results depending on which way you do it; right?

A. Plausibly the numbers could be a little bit different. Again, because they're both reflecting oil futures, you would expect them to move roughly together, but the numbers would be slightly different, yes.

Q. If you had used the same prices in your calculation for the same contracts throughout, do you know how it would have affected all of your data?

MS. POSNER: Objection.

A. Not without calculating it, no.

Q. But it could affect all of your data;

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right?

A. It would only affect the index on days in which it rolled from one contract to the next in terms of how the returns would change for the oil index.

Q. Who created the index?

A. I believe this is a NYMEX index.

Q. So you just consulted the data and used it, no one on your team performed any analysis of it; is that right?

A. I recall, again, like I said, reading the details of this at one point in time. I just don't recall the specifics as I sit here, but I don't think that's a fair description.

Q. Do you have any idea how your team dealt with the situation where contracts had to be rolled forward?

A. As I sit here, I don't know the details of that, no.

MR. BALLARD: We're going to take a short break.

THE VIDEO TECHNICIAN: We're going off the record. The time is 2:47 p.m.

(Recess taken.)

C. Coffman

THE VIDEO TECHNICIAN: The time is 3:03:00 p.m. We're back on the record.

Q. Mr. Coffman, have you had a chance to talk with your staff about the rolling forward of futures contracts?

A. The only thing I was able to confirm is that the series was created just by pulling down a consistent series from a market website that reflects the price of the nearest-term contract, so that -- there weren't any changes or putting together of the data from different contracts.

The price series you see in Exhibit 56 is precisely what was downloaded as the price index for the current contract.

Q. Okay. And so if you're looking at Exhibit 57, and Exhibit 56, do you have any way of knowing how the data your team downloaded for Exhibit 56, how it pulled prices from which maturity?

A. I was not able to get to that level of detail over the break. I don't know as I sit here.

Q. But looking at Exhibit 57, for November 15, you can see that there are prices for November 15 and November 14 for both maturity dates; right?

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A. Yes.

Q. And you just don't know why they chose to use one price from one security and the other price from the other security?

A. When you say they chose, the data was just downloaded as one series so there wasn't a choice made. We downloaded the data and used it as is.

Q. So it was in the index, you just pulled it down?

A. Yes.

Q. So we would have to talk to whoever created the index to figure out why they were mixing prices up?

A. I think it was designed that way. I think the idea is you're trying to create something that reflects how an investment, a continued rolling investment in the most current contract, would have performed. And so at some point you have to roll over to the next contract, so I think that's the logic behind it, but again, it's been a while since I've thought about this specific detail.

Q. How would we go about finding out what

C. Coffman

their methodology is for rolling forward the contracts?

A. Well, it's a price series that's listed on S&P's Capital IQ website so I would want to go and consult with how it's described there.

Q. Would you agree that it's important for this data to be correct for your analysis?

A. Well, I don't think there's any question our data is correct in that we pulled it down as a price series of oil futures, so I don't think there's a question of whether it's correct or not. You're asking a question about methodologically how it moves from one contract to the next, but I don't think any of the data is incorrect.

Q. Would you agree that if your data is incorrect, your analysis will be incorrect as well?

A. Well, I don't think any of the data is incorrect. I calculated -- I downloaded an oil futures index and computed returns off of that. I don't think there's anything incorrect about that.

Q. If the data in the index is incorrect, your analysis will be incorrect; right?

A. If there's something incorrect about an

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input to an analysis, then conceivably the results coming out of that analysis are incorrect.

Q. I think I have one more question for you on a different topic. Can you turn back to your corrected report, Exhibit No. 42.

A. Okay.

Q. I'm looking at page 57.

A. Okay.

Q. There's the heading on Section 10(b)(5) damages. Do you have that?

A. Yes.

Q. I'd asked you some questions about the damages analysis on the first day of your deposition. Have you done any additional work since the first day of your deposition on damages?

A. No.

Q. Has your opinion on whether damages are capable of being calculated on a class-wide basis changed in any way?

A. No.

Q. Has your opinion about how damages could be calculated changed in any way since the first day of your deposition?

A. No.

C. Coffman

Q. Does your damages methodology provide any mechanism for separating low risk investors from high risk investors?

A. No. I don't know why there would be a rationale to do that, but no.

MR. BALLARD: Thank you. I have no further questions at this time.

MS. POSNER: I'm going to attempt to do some redirect without a voice.

EXAMINATION BY
MS. POSNER:

Q. During your first deposition, Mr. Ballard asked you some questions regarding the identity of the analysts that were covering Miller Energy during the analysis period.

Do you recall that?

A. Yes.

Q. Does the identity of the analyst, in other words, their name specifically, that covered Miller Energy matter?

A. I don't see why it would, no.

Q. Why not?

A. Because analyst reports are generally put out by -- the concept of looking at analysts

C. Coffman

for market efficiency is whether or not there's interest and information being disseminated about a company and an analysis being performed. It doesn't depend on the identity of any particular analyst.

Q. And Mr. Ballard was separating out what he deemed traditional analysts versus computer-generated analysts. Do you remember that?

A. Yes.

Q. Do you know how many, in his definition of traditional analysts, covered Miller Energy during the analysis period?

A. I believe it was on the order of approximately 80 to 90, I think.

Q. 80 or 90 reports?

A. Reports.

Q. Do you know how many analysts, traditional analysts, issued those reports?

A. I believe it was six.

Q. Do you know whether there have been other cases that have been certified that you've been involved in that have had similar numbers of reports or analysts covering the company?

MR. BALLARD: Objection to form.

C. Coffman

A. There are certainly cases where the analyst coverage in, terms of number of analysts or reports, was less that were certified, yes.

Q. You testified at your first deposition that there's not a set threshold for the number of analysts that need to cover a security in order for Cammer factor 2 to be satisfied. Why is that?

A. Because again, the idea of the factor is whether or not there's sufficient interest and resources being spent in analyzing a company and information dissemination about a company, and so the specific counting of analysts isn't really the thrust of the idea.

And so there's -- you know, there's -- and there's no academic literature that says in order to have efficiency, you have to have a specific number of analysts. So there's just not a bright line test.

Q. Does not having a threshold mean that your analysis of Cammer factor 2 was not scientific?

MR. BALLARD: Objection.

A. No. I think I showed there was substantial coverage by analysts and there was no

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need to consider what some sort of threshold would be since it was clear there was substantial analyst coverage.

Q. Did the analysts that were covering Miller Energy during the analysis period provide information that was relevant to preferred securities holders?

A. Yes.

Q. What was that information?

A. Any information that would be involved in valuing the common stock would be relevant to consider in valuing or considering the value of the preferred stock.

Q. Did any of the analysts give a price target for the preferred securities?

A. Not that I specifically remember, no.

Q. Is it common for analysts to not provide a price target for preferred securities?

A. I don't -- that would be something that I think is pretty rare. I don't recall having seen a lot of analysts provide price targets for preferred securities.

Q. I'm going to turn your attention to another topic Mr. Ballard asked you about at your

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first deposition. He asked you some questions regarding whether you can identify by name any of the market makers in Miller Energy securities during the analysis period.

Do you recall that?

A. Yes.

Q. In conducting an analysis for market efficiency purposes, does it matter if you can identify by name the market makers?

A. Certainly not in this case. In a case where the stock is traded on a national exchange where the rules are designed to always make sure there is market making present for a common stock or a preferred stock, knowing the identity of who the market makers are I don't think really provides any additional or useful information.

Q. If you could take out Exhibit 42, which is your corrected report, I'm going to turn your attention to page 30.

A. Okay.

Q. Can you read what you say quoting from Cammer under paragraph 44 there.

A. Sure. "It would be helpful to allege the company was entitled to file an S-3

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registration statement in connection with public offerings, or if ineligible, such ineligibility was only because of timing factors rather than because the minimum stock requirements set forth in the instructions to Form S-3 were not met. Again, it is the number of shares traded and value of shares outstanding that involve the facts which imply efficiency."

Q. I think you discussed with Mr. Ballard the fact that Miller Energy was ineligible to file an S-3 for about the first year of the analysis period. Do you recall that?

A. Yes.

Q. Was the reason that they were ineligible due to them failing to meet the, quote, minimum stock requirements that are described in Cammer factor 4 here?

A. In terms of the shares traded or the value of shares outstanding, no. My understanding that is not the reason they were ineligible.

Q. And then there was a time period at the end of the analysis period where they became ineligible again. Do you recall that?

A. Yes.

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Q. And I believe that was July 14, 2015.
Does sound like the right date to you?
A. I believe that's the date on which they missed a filing and therefore weren't current on their filings, yes.
Q. Did Miller Energy's shares trading and volume of shares outstanding otherwise meet the minimum stock requirement under Cammer factor 4 during that time period?
A. The number of shares traded certainly did. The value of shares outstanding, my understanding is, is not actually necessary to be eligible for S-3.
Q. Is there a reason why -- strike that.
During the early part of the analysis period, Mr. Ballard asked you some questions regarding whether Miller Energy securities were efficient. During that first year of the analysis period, is it your opinion that Miller Energy common stock was efficient?
A. Yes.
Q. Why is that?
A. For all the reasons listed in my report. I mean, all of the different factors that

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I analyzed. Clearly, some of the factors speak directly to it.

Some of the factors speak over the period more generally, but in terms of -- I mean, there was certainly sufficient volume during that period. There was analyst coverage during that period.

They were generally -- would have been S-3 eligible, based on the shares traded and value of shares outstanding, but for the late filing. They were on the exchange, so it certainly met the market maker, and the price reaction to new information analysis supports it was efficient.

The -- just one second. While it had -- it had sufficient market capitalization at the beginning of the class period. The bid-asked spread was low during the beginning of the class period. There were institutional holdings. There was no autocorrelation, and there was options trading. So really none of the factors point towards it being inefficient during that period.

Q. I realize the preferred stock didn't start trading until a little bit later, at least most of it. During the initial few months when the

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preferred stock was trading, is it your opinion that the market for preferred shares was also efficient at that time?

A. Yes.

Q. Why is that?

A. Again, because overall, looking at all of the factors, there was certainly sufficient volume in the preferred securities. There was analyst coverage of the company throughout that period. They traded on the exchange. They were S-3 eligible during that period.

I've shown that at least during a period where the preferred's would have been subject to price changes due to new news, that there is a cause and effect relationship there.

The bid-asked spread during that period for the preferred stocks was around -- just a second. The bid-asked spread was generally below the mean for the exchange traded stocks.

Overall, the market cap of the company was sufficiently high and there's no evidence of autocorrelation, regular autocorrelation, for preferred shares.

Q. In your answer just now, when you

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talked about the cause and effect, you were talking about different kinds of value-relevant information that you used to analyze the preferred securities versus the common stock.

Why did you look at different types of information or announcements in analyzing the cause and effect relationship for the preferred's versus the common stock?

A. Well, I explained that in my report. Because preferred securities have both equity-like and bond-like components, there are periods in which the preferred shares, while they were trading in a primarily bond-like manner, would not be sensitive to announcements like earnings announcements. And then once you get to a point that the price is trading below par value and, therefore, in a substantial way, and therefore reflects that there is some liquidity concern about the company, then it would trade more on an equity-like basis and you would expect it to react to new updated news about the company, including potentially earnings announcements. But in particular, you would expect it to respond to further information about the liquidity of the

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company and the extent to which the preferred dividends were going to continue to be paid. So I looked at those types of events.

Q. You talked today and at your last deposition a little bit about how you collected news to use in your analysis and I think you provided a couple of different services you used. What are those services?

A. Factiva for news, Investext for analyst reports, and then both the SEC directly and Investext to identify SEC filings.

Q. Are those standard sources for gathering news about a company?

A. Yes.

Q. Have you used those same sources in other cases?

MR. BALLARD: Objection.

A. Numerous other cases.

Q. I turn your attention to your last deposition. Mr. Ballard was asking you some questions about whether you could calculate Section 11 damages on a class-wide basis.

Do you remember that?

A. Yes.

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Q. Assuming Series C and Series D purchases could be traced to a specific Miller Energy offering, could you calculate their damages under the statutory formula with precision?

MR. BALLARD: Objection to form.

A. Yes.

Q. Assuming Series C or D purchases could be traced to a specific Miller Energy offering and you had investors' purchase and sale information, would the damages for all purchasers of each offering be calculated in the same manner?

MR. BALLARD: Objection to form.

A. They would be calculated using the same formula, yes. The numbers might be different depending on their particular purchase prices and which offering it traces back to and what their sale prices were, et cetera, but the methodology would be identical, yes.

MS. POSNER: I don't think I have any further questions, pending anything from Mr. Ballard.

EXAMINATION BY

MR. BALLARD:

Q. I have one more question. With respect

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to the six traditional analysts that you referred to earlier, how many of those were covering Miller Energy at the beginning of the analysis period?

A. One for sure. There were other individuals on the call, but I don't recall seeing analyst reports from those particular individuals, and as I said, Investext, in my opening report, and in my deposition, Investext may not capture all analyst reports, but I believe there was one at the beginning of the class period that I could identify.

Q. For the first year of the proposed class period, how many of the six traditional analysts were covering the stock?

A. I don't recall.

MR. BALLARD: I have no further questions.

MS. POSNER: Just give me two minutes.

MR. BALLARD: Let's go off.

THE VIDEO TECHNICIAN: We're going off the record. The time is 3:25 p.m.

(Discussion off the record.)

THE VIDEO TECHNICIAN: The time is 3:26 p.m. We're back on the record.

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MS. POSNER: I have no further questions. Thank you, Mr. Coffman.

MR. BALLARD: Thank you.

THE VIDEO TECHNICIAN: This completes the video deposition of Chad Coffman on April 25, 2019 at 3:26 p.m. We are off the record.

(Time noted: 3:26 p.m.)

A C K N O W L E D G E M E N T

I, CHAD COFFMAN, hereby certify that I have read the transcript of my testimony taken under oath in my deposition of April 25, 2019; that the transcript is a true, complete and correct record of my testimony, and that the answers on the record as given by me are true and correct.

Chad Coffman

Subscribed and sworn to before me
on this the 16th day of May 2019.

B Urban — October 19, 2022

Notary Public — My Commission Expires:

B URBAN
Official Seal
Notary Public - State of Illinois
My Commission Expires Oct 19, 2022

C E R T I F I C A T E

STATE OF NEW YORK)

:

COUNTY OF NEW YORK)

I, ELEANOR GREENHOUSE, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify:

That, CHAD COFFMAN, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 29th day of April, 2019.

Eleanor Greenhouse

ELEANOR GREENHOUSE

April 25, 2019

I N D E X

E X H I B I T S

April 25, 2019

I N D E X (Continued.)

E X H I B I T S

Errata – Deposition of Chad Coffman – 04-12-2019

1. 352:3 - "date," should be "dates."
2. 352:16 - "types," should be "type."
3. 367: 14 - "July 18, 2011," should be "July 28, 2011."
4. 469: 10 – "'REP' and then "CL," should state "RET_CL."
5. 474:13 "REP_CL," should state "RET_CL."
6. 494: 17-18 – "bid-asked spread," should state "bid-ask spread."
7. 495: 17 – "bid-asked spread," should state "bid-ask spread."
8. 495: 19 – "bid-asked spread," should state "bid-ask spread."